

FINAL

FEATHER RIVER WEST LEVEE PROJECT RESPONSES TO COMMENTS

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Acronyms, Abbreviations, and Shortened Forms

BA	biological assessment
BMPs	best management practices
BO	biological opinion
CDFW	California Department of Fish and Wildlife
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CVFPB	Central Valley Flood Protection Board
DWR	California Department of Water Resources
EIR	environmental impact report
EIS	environmental impact statement
FEMA	Federal Emergency Management Agency
FRWA	Fern Ridge Wildlife Area
FRWLP	Feather River West Levee Project
GPS	global positioning system
HCP	habitat conservation plan
ICF	ICF International
ITP	incidental take permit
LD	Levee District
LEDPA	least environmentally damaging practicable alternative
MLD	most-likely descendant
MMP	mitigation and monitoring plan
MOU	Memorandum of Understanding
NAAQS	National Ambient Air Quality Standards
NCCP	natural community conservation plan
NEPA	National Environmental Policy Act
NGOs	non-governmental organizations
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NO _x	oxides of nitrogen
NRDC	Natural Resources Defense Council
O&M	operations and maintenance
OHWM	ordinary high water mark
OWA	Oroville Wildlife Area
PG&E	Pacific Gas and Electric Company
SACOG	Sacramento Area Council of Governments
SBFCA	Sutter Butte Flood Control Agency
SFHA	Special Flood Hazard Area
SIP	state implementation plan
SOI	sphere of influence
SWPPP	stormwater pollution prevention plan
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
VELB	valley elderberry longhorn beetle

Chapter 1

Introduction

The Feather River West Levee Project (FRWLP) Draft environmental impact statement/environmental impact report (EIS/EIR) was circulated for public review in December 2012 with a public comment period of 49 days, between December 27, 2012 and February 13, 2013. Thirty-one comments were submitted on the Draft EIS/EIR, including those from the following commenters.

- Three Federal agencies.
- One tribal government.
- Three state agencies.
- Thirteen individuals (written comments).
- Twenty-one individuals (audible oral comments recorded at three public hearings).
- Five non-governmental organizations (NGOs) or other organizations.

The majority of comments received were related to one or more of the following topic areas.

- Concern regarding U.S. Army Corps of Engineers (USACE) levee vegetation policy as it relates to the FRWLP.
- Concern regarding the adequate analysis of recreation and public access impacts.
- Questions and comments on the analysis of wildlife and vegetation resources.
- Questions and comments on hydraulic and flooding impacts.
- Questions and comments on property acquisition.
- Questions and comments on the analysis of alternatives presented.
- Questions and comments on the analysis of growth inducing impacts.
- Other miscellaneous comments.

Chapters 2 through 4 present the full comments and detailed responses, organized by public agencies and tribal organizations, NGOs or other organizations, individuals, and public hearings. Each comment in the following chapters has been considered and responded to individually. If a comment resulted in a change to the Final EIS, it is noted within the comment's response. USACE coordinated with SBFCA to prepare responses to comments associated with the California Environmental Quality Act (CEQA) process and other specific issues related to SBFCA's authorities and project design and construction.

This EIS/EIR was initiated as a joint document with USACE involvement pursuant to its authority under 33 U.S.C. Section 408 and as the lead National Environmental Policy Act (NEPA) agency, and with the Sutter Butte Flood Control Agency (SBFCA) as the project applicant and the CEQA lead agency. The Draft EIS/EIR was written with joint NEPA and CEQA language to characterize the cooperation of the two agencies on the FRWLP. Since the release of the Draft EIS/EIR, the NEPA and CEQA processes have been separated and are now represented by a stand-alone EIS and a stand-alone EIR, respectively. It should be noted that the language in this EIS has not been modified to NEPA-only; it maintains the joint language used when environmental analysis was initiated on the FRWLP.

Chapter 2

Federal, Tribal, and State Agency Comments and Responses

This chapter contains the comments received on the Draft EIS/EIR from Federal, tribal, and state agencies. The comment letters are subdivided by level of government and each agency has been assigned a unique code. Each comment within the letter has also been assigned a unique code, noted in the margin. For example, the code “F2-A” indicates the first distinct comment (indicated by the “A”) in the letter from the U.S. Department of the Interior, which was the second letter (indicated by the “2”) received from a Federal agency (indicated by the “F”). The chapter presents each comment letter immediately followed by the responses to that letter. Table 2-1 summarizes the commenting party, comment letter signatory, and date of the comment letters.

Table 2-1. List of Federal, Tribal, and State Agency and Comment Letters

Letter	Agency	Comment Letter Signatory, Date
2.1 Federal Agency Comments and Responses		
F1	U.S. Environmental Protection Agency, Region IX	Kathleen Goforth, February 15, 2013
F2	U.S. Department of the Interior, Office of the Secretary, Office of Environmental Policy and Compliance, Pacific Southwest Region	Patricia Sanderson Port, Regional Environmental Officer, February 25, 2013
F3	U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southwest Region	Maria Rea, Supervisor, Central Valley Office, February 26, 2013
2.2 Tribal Comments and Responses		
T1	United Auburn Indian Community of the Auburn Rancheria	Gene Whitehouse, Chairman, February 13, 2013
2.3 State Agency Comments and Responses		
S1	California Department of Water Resources, Division of Operations and Maintenance	Leroy Ellinghouse, Chief of the SWP Encroachments Section, January 19, 2013
S2	California Department of Water Resources, Division of Operations and Maintenance	Leroy Ellinghouse, Chief of the SWP Encroachments Section, January 22, 2013
S3	California Department of Water Resources	Erin Brehmer, Environmental Scientist, February 11, 2013
S4	California Department of Fish and Wildlife	Tina Bartlett, Regional Manager, February 11, 2013
S5	California State Lands Commission, Division of Environmental Planning and Management	Cy R. Oggins, Chief, February 11, 2013

2.1 Federal Agency Comments and Responses

Letter F1—U.S. Environmental Protection Agency, Region IX, Kathleen Goforth, February 15, 2013



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105
FEB 15 2013

Letter F1

Jeff Koschak
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814-2922

Subject: Feather River West Levee Project Draft Environmental Impact Statement (DEIS)/
Environmental Impact Report, Butte and Sutter Counties, California
[CEQ #20120399]

Dear Mr. Koschak:

The U.S. Environmental Protection Agency (EPA) has reviewed the above referenced document. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's (CEQ) NEPA Implementation Regulations at 40 CFR 1500 - 1508, and our review authority under Section 309 of the Clean Air Act.

F1-A EPA has rated the DEIS as EC-2 -- Environmental Concerns-Insufficient Information" (see Enclosure 1: "Summary of Rating Definitions and Follow-Up Action") because it is unclear whether significant impacts to waters of the U.S. and sensitive species and habitats would be effectively avoided and/or mitigated. The Final Environmental Impact Statement (FEIS) should include additional information to demonstrate that the preferred alternative is the least environmentally damaging practicable alternative to meet the project purpose, and describe and discuss options for mitigating impacts to waters of the U.S. The FEIS should also include additional information regarding sensitive species and habitats in the project area, air pollutant emissions during project construction, and mitigation measures to minimize project impacts. Our detailed comments are enclosed (see Enclosure 2).

We appreciate the opportunity to review this DEIS. Please send a hard copy of the FEIS to this office (mailcode CED-2) when it is officially filed with EPA's new electronic EIS submittal tool: *e-NEPA*. If you have any questions, please call me at (415) 972-3521 or contact Jeanne Geselbracht, our lead NEPA reviewer for this project, at geselbracht.jeanne@epa.gov or (415) 972-3853.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Martyn Goforth", is written over a horizontal line.

Kathleen Martyn Goforth, Manager
Environmental Review Office (CED-2)

Enclosures:

- (1) Summary of Rating Definitions and Follow-Up Action
- (2) EPA's detailed comments on the Feather River West Levee Project DEIS

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

Category "1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category "2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category "3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

**Feather River West Levee Project DEIS
EPA Comments – February, 2013**

Water Quality

F1-B Table 3.8-6 in the DEIS provides acreages of waters of the U.S. that could be affected under each project alternative. These acreages appear to be based on jurisdictional delineations conducted by the Sutter Butte Flood Control Agency (SBFCA). The table may be incomplete, however, as it does not include acreages that could be affected by activities at borrow sites. Furthermore, the DEIS does not indicate whether these delineations have been verified by the U.S. Army Corps of Engineers (Corps). Lacking this information, it is difficult to determine the extent of potential impacts to waters of the U.S. and whether sufficient avoidance measures have been considered.

Recommendation: For each alternative, the FEIS should provide verified acreages and types of potentially affected waters of the U.S., including those at borrow sites. Maps should be provided illustrating the locations and types of waters of the U.S. in relation to the proposed project footprint for each alternative.

F1-C Levee repair activities under any of the project alternatives would result in fill of waters of the U.S., which would require Clean Water Act Section 404 authorization by the Corps. To comply with Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials (40 CFR 230), promulgated pursuant to Section 404(b)(1) of the Clean Water Act, any permitted discharge into waters of the U.S. must be the least environmentally damaging practicable alternative (LEDPA) available to achieve the project purpose. The DEIS does not provide an alternatives analysis that adequately demonstrates whether Alternative 3 is the LEDPA.

Recommendation: The FEIS should identify the LEDPA, and explain the basis for this designation.

The DEIS (pp. 3.8-23, 24) indicates that SBFCA will develop, in coordination with regulatory agencies, a restoration plan for compensation for the loss of wetlands. The plan will include restoring or enhancing in-kind wetland habitat and open-water habitat at a mitigation ratio to ensure no net loss of habitat functions and values. Further details on how project impacts would be offset are not available in the DEIS, and it is unclear what mitigation options exist for the project (e.g., mitigation bank credits or off-site permittee-responsible projects). We note that an off-site permittee-responsible project could be appropriate, if it would support a watershed approach to aquatic resource management (such as contributing to existing regional conservation plans), and "will restore an outstanding resource based on a rigorous scientific and technical analysis" (40 CFR 230.93(b)(2)).

F1-D

Recommendations:

- The FEIS should identify and discuss mitigation options for the proposed project, including where they would be located, how they would be conducted, and how they would comply with the Federal Mitigation Rule (40 CFR Part 230, Subpart J). If a mitigation bank or in-lieu fee (ILF) program would be used, the FEIS should identify the site, confirm that it is meeting or has met its performance standards, and that the types of mitigation needed are available at that site.
- If sufficient bank or ILF credits are not available, EPA recommends that the Corps only approve permittee-responsible mitigation at sites selected using a watershed approach to restoration of ecosystem functions and services, and where activities are likely to be successful and naturally self-sustaining.
- Please contact Paul Jones, EPA Wetlands Office, at (415) 972-3470 or jones.paul@epa.gov, to continue discussion of the LEDPA and mitigation plan.

The DEIS (p. 2-33) indicates that small, isolated infestations of invasive plant species would be treated with eradication methods that have been approved by or developed in conjunction with the Sutter and Butte county agricultural commissioners. It is unclear, however, whether these same methods would, potentially, be used for large infestations, and whether eradication methods would include chemical treatment.

F1-E

Recommendation: The FEIS should clarify whether large infestations would be treated with the same eradication methods as those used for small infestations, identify the approved eradication methods for both, and discuss whether pesticides might be used for small or large invasive plant infestations. If pesticides would, potentially, be used, the FEIS should identify the pesticides and state the provisions for their use. This discussion should include actions needed to comply with the California National Pollutant Discharge Elimination System permit for Aquatic Weed Control pesticide applications, which is under revision and scheduled for reissuance in 2013. Note that both the existing and proposed versions of the California permit require advance submission of an Aquatic Pesticide Application Plan, in some cases 90 days in advance. More information is available at http://www.swrcb.ca.gov/water_issues/programs/npdes/aquatic.shtml

Air Quality

The DEIS provides construction emissions estimates for each alternative in pounds per day and tons per year for purposes of comparing them with the general conformity de minimis thresholds. It appears that the proposed project's direct and indirect contaminant emissions have not been modeled to show their estimated concentrations in the project area for each alternative for an accurate comparison with the NAAQS.

F1-F

Recommendation: Additional dispersion modeling should be conducted to determine air pollutant concentrations of criteria pollutants from direct, indirect, and cumulative emissions for an accurate comparison with the NAAQS, using comparable units (e.g. micrograms per cubic meter, parts per billion, or parts per million). The Final EIS should include this additional information.

Biological Resources

The DEIS identifies several special-status fish and wildlife species in the project area, including the endangered Sacramento River winter-run Chinook salmon, and the threatened green sturgeon, Central Valley steelhead, Central Valley spring-run Chinook salmon, valley elderberry longhorn beetle, and giant garter snake. The Feather River in the study area is designated critical habitat for green sturgeon, Central Valley steelhead, and Central Valley spring-run Chinook salmon. According to the DEIS, habitat surveys will be conducted for the valley elderberry longhorn beetle, giant garter snake, and several other special-status species before construction begins. These surveys should be completed prior to publication of the FEIS so that development of appropriate avoidance and mitigation measures to minimize significant impacts to these resources can be completed, and the impacts of project alternatives and the effectiveness of associated mitigation measures can be compared and assessed in the FEIS. Furthermore, the Biological Opinion will play an important role in informing the decision on alternative approval and what commitments, terms, and conditions must accompany that approval.

F1-G

Recommendation: The Final EIS should include the biological opinion and incorporate sufficient information on the special-status habitat surveys and compensatory mitigation proposals to show how mitigation commitments will be conducted and how effective they are expected to be in minimizing significant impacts.

The DEIS (Table 3.8-6) indicates that the preferred alternative would result in the loss of at least 21 acres of riparian habitat. According to page 3.8-21, a riparian habitat mitigation and monitoring plan will be prepared by a qualified restoration ecologist prior to vegetation removal, and potential mitigation areas would be evaluated to determine their suitability to support the target native tree species. While the DEIS (p. 3.8-29)

F1-H



F1-H
cont'd

↑ states that the disturbance or removal of this habitat would be a significant impact, it also states that the impact would be less than significant in the long term after establishment of compensatory vegetation. However, a habitat suitability evaluation and restoration mitigation and monitoring plan have not yet been prepared; therefore, it is unclear how or where these restoration activities would occur. As is the case for the special-status species discussed above, these habitat surveys should be completed prior to publication of the FEIS so that development of appropriate avoidance and mitigation measures to minimize significant impacts to these resources can be completed, and the impacts of project alternatives and the effectiveness of associated mitigation measures can be compared and assessed in the FEIS.

Recommendation: The FEIS should include a summary of the habitat suitability evaluation, avoidance measures, and restoration mitigation and monitoring plan, including commitments regarding how and where restoration activities would occur. The FEIS should also discuss these commitments in the context of their anticipated effectiveness in minimizing significant impacts.

F1-I

The DEIS (p. 3.8-30) states that implementation of Alternative 3 would result in greater effects on oak woodland and the open water land cover type than would Alternatives 1 and 2, but this statement conflicts with Table 3.8-6. This inconsistency should be rectified in the FEIS.

Response to Letter F1

F1-A

Effects on waters of the United States and special status plants are described in Effect VEG-2 and VEG-4 (loss of wetlands, loss of special status plant populations); mitigation is required in Mitigation Measures VEG-MM-5 (compensate for loss of wetlands) and VEG-MM-8 and VEG-MM-9 (survey for special status plants, compensate for effects). Effects and mitigation measures for air quality are covered in Chapter 3.5, *Air Quality*.

A least environmentally damaging practicable alternative (LEDPA) has not been identified because it is not anticipated that effects on waters of the United States will be permitted through an individual permit. It is acknowledged that, in most cases, National Environmental Policy Act (NEPA) analysis for USACE actions requires consideration of the LEDPA if the project will require an individual permit (40 Code of Federal Regulations [CFR] 230.10[a][4]). However, USACE has determined that the FRWLP can be permitted through the Nationwide Permit program, for which NEPA analysis is considered complete and a project-specific 404(b)(1) alternatives analysis and LEDPA determination are not required. These circumstances have been reflected in the Final EIS in Chapter 5. Please refer to the response to comments F1-B, F1-D, F1-F, and F1-G.

F1-B

The commenter suggests that the EIS should report verified acreages for waters of the United States for each alternative. SBFCA has prepared a delineation of jurisdictional waters for both the levee repair alternatives and the borrow sites for the project area, including a buffer that should encompass each alternative. USACE has reviewed these documents and has issued a preliminary jurisdictional determination. The results of the effects of each alternative overlain on the verified delineation are shown in revised Table 3.8-6.

F1-C

Please see response to comment F1-A above.

F1-D

The commenter suggests that SBFCA should identify the specific site where mitigation will be located for the project. SBFCA has prepared a mitigation and monitoring plan (MMP) to perform mitigation for effects to waters of the U.S., trees, woody vegetation and habitat for giant garter snake and valley elderberry longhorn beetle under the direction of USACE, National Marine Fishers Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife (CDFW). The proposed project mitigation will be in-kind replacement habitat that is a combination of permittee-responsible mitigation and mitigation bank credits that will allow for economy of scale and higher quality habitat due to large patch size. The MMP is included as Appendix F.3. Comment did not necessitate change to the Final EIS.

F1-E

The project will utilize seed mix from construction specifications and the stormwater pollution prevention plan (SWPPP) that will prevent colonization of invasive weeds. Operations and Maintenance measures that are presently in place, including timed mowing and burning, also

prevent weed growth. Pesticides are not currently being considered for use in eradication; however, if that became necessary, SBFCA will coordinate appropriately with the local maintaining agencies to ensure they are applied to meet standards. Also, no disturbance of aquatic sites is anticipated so no infestations of aquatic weeds would be induced by the project. Comment did not necessitate change to the Final EIS.

F1-F

The commenter has indicated that, while the Draft EIS/EIR analyzes mass emissions for comparison to the general conformity *de minimis* thresholds, the analysis should perform dispersion modeling to determine if direct, indirect, and cumulative emissions would exceed the National Ambient Air Quality Standards (NAAQS). Because of the site-specific detail required to estimate air pollutant concentrations through dispersion modeling (e.g., scheduling, location, and duration of construction activities; equipment inventory, etc.), it was felt that sufficient data is not available in detail to accurately estimate air pollutant concentrations for comparison to the NAAQS and to do so would be speculative given the size and scope of potential construction activities. Therefore, a surrogate analysis using General Conformity was used to evaluate the project's potential to exceed the NAAQS, as the purpose of General Conformity is to (1) ensure Federal activities do not interfere with the budgets in the state implementation plans (SIPs); (2) ensure actions do not cause or contribute to new violations; and (3) ensure attainment and maintenance of the NAAQS.

As indicated in the Draft EIS/EIR, emissions associated with Alternatives 1 and 3 would not exceed the General Conformity *de minimis* thresholds. Therefore, consistent with the General Conformity rule, these emissions would not be subject to a General Conformity determination and are presumed to not cause or contribute to new violations and ensure attainment and maintenance of the NAAQS. The Draft EIS/EIR also indicates that emissions associated with Alternative 2 would exceed the General Conformity *de minimis* thresholds for oxides of nitrogen (NO_x). Consequently, a General Conformity determination was prepared for Alternative 2 to demonstrate that total direct and indirect emissions of NO_x associated with Alternative 2 would conform to the appropriate ozone SIP.

However, USACE and SBFCA have determined that Alternative 2 is not the preferred alternative and emissions associated with Alternative 3, the applicant-preferred alternative (APA), are below the applicable General Conformity *de minimis* thresholds. Therefore, the General Conformity Determination previously presented in the Draft EIS/EIR has been removed and is not included in the Final EIS. Text has been added on page 3.5-4 to address this issue.

Text has been added on page 3.5-12 to indicate coordination with Feather River Air Quality Management District (FRAQMD) and Butte County Air Quality Management District (BCAQMD) staff regarding these issues.

F1-G

Because the project area is so large and would be constructed in phases over multiple years, it is not feasible to conduct surveys for all special-status species prior to publication of the Final EIS. Valley elderberry longhorn beetle (VELB) surveys have been conducted for all visible elderberry shrubs (and shrub clusters) within 100 feet of the maximum extent of the alternative boundaries were mapped with global positioning system (GPS) and recorded. When the bases of shrubs were accessible, stem counts, heights, and widths of shrubs were recorded, and shrubs were surveyed for VELB exit holes. Where there wasn't property access, or where dense poison oak, blackberry, and/or other vegetation surrounds elderberry shrubs, stem counts and exit hole surveys could not be

conducted. Pre-construction surveys will be repeated for all shrubs to be removed prior to transplantation (see Section 3.9.4.2). An assessment of giant garter snake habitat has been conducted and the areas of suitable habitat have been refined. Data are available for several years of bank swallow surveys along the Feather River. An assessment of habitat for the beetles and yellow-billed cuckoo has been conducted, and the areas of suitable habitat have been refined. Swainson's hawk and other nesting raptor surveys began in March 2013 and will be conducted prior to each Contract construction season. All available habitat assessment/survey info and mitigation have been included in the Final EIS (see Section 3.9 *Wildlife*).

Biological assessments were completed and submitted to the NMFS and USFWS in March 2013. The NMFS letter of concurrence and USFWS BO are included in Appendix F in the Final EIS.

F1-H

An MMP has been developed for the project and is included as Appendix F.3. The proposed project mitigation will be offsite, in-kind replacement habitat that is a combination of permittee-responsible mitigation and mitigation bank credits that will allow for economy of scale and higher quality habitat due to large patch size. Comment did not necessitate change to the Final EIS.

F1-I

Comment noted. Table 3.8-6 and corresponding text have been updated appropriately in the Final EIS.

Letter F2—U.S. Department of the Interior, Office of the Secretary, Office of Environmental Policy and Compliance, Pacific Southwest Region, Patricia Sanderson Port, Regional Environmental Officer, February 25, 2013

Letter F2



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Pacific Southwest Region
333 Bush Street, Suite 515
San Francisco, CA 94104

IN REPLY REFER TO:
(ER 12/922)

Filed Electronically

25 February 2013

Jeff Koschak
Project Manager
U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814

Subject: Draft Environmental Impact Statement (DEIS), US Army Corps of Engineers (USACE), Feather River West Levee Project, To Reduce Flood Risk in the Sutter Basin, Sutter and Butte Counties, CA

Dear Mr. Koschak:

F2-A

The Department of the Interior has received and reviewed the subject document and has no comments to offer.

Thank you for the opportunity to review this project.

Sincerely,

Patricia Sanderson Port
Regional Environmental Officer

cc:
Director, OEPC
OEPC Staff Contact: Loretta B. Sutton

Response to Letter F2

F2-A

Comment noted. Thank you for taking the time to review the document. Comment did not necessitate change to the Final EIS.

Letter F3—U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southwest Region, February 26, 2013



Letter F3

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814-4700

FEB 26 2013

Alicia E. Kirchner
Chief, Planning Division
Department of the Army
U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Dear Ms. Kirchner:

F3-A This is in response to your December 20, 2012, letter requesting NOAA's National Marine Fisheries Service's (NMFS) review of the draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Feather River West Levee Project. The Sutter Butte Flood Control Agency is requesting permission for the U.S. Army Corps of Engineers (Corps) to address known levee deficiencies by remediating sections of this Corps levee.

The proposed project as described by the preferred alternative in the draft EIS/EIR involves: (1) installing approximately 34 miles of soil and bentonite cutoff walls (0.68 mile with associated ditch fill); (2) constructing 0.72 mile of seepage berms; (3) placing 0.42 mile of ditch fill; (4) dredging 1.8 miles of canal; and (5) relocating or removing encroachments along approximately 3.44 miles of the Feather River west levee. The proposed project area would extend approximately 41 miles from the Thermalito Afterbay downstream of Oroville Dam south to a point approximately 1.7 miles north of the State Highway 99 Bridge over the Feather River. When completed, the proposed project would reduce potential flooding, flood damages, and public risk by eliminating or reducing these known levee deficiencies, including through- and under-seepage, slope instability, erosion, and encroachments within the construction footprint. While NMFS appreciates the opportunity to review the draft EIS/EIR, our staff currently does not have the time allocated for a detailed review.

In addition to the proposed project described above, NMFS has recently been requested to participate in the following projects:

- (1) The plenary process to assist with identification of avoidance and minimization measures, design of self-mitigating sites where appropriate, and assistance in evaluating potential mitigation options for the American River Common Features General Reevaluation Report. This will likely be a complex and lengthy project.
- (2) All future and current phases of the Sacramento River Bank Protection Project (Sacramento Bank). NMFS recently provided comments to the Corps on the



2

F3-A

administrative draft Biological Assessment for the Sacramento Bank, Phase II 80,000 Linear Feet.

- (3) As part of the Rehabilitation and Inspection Program, the Corps has requested that NMFS review designated levees in relation to adjacency to listed NOAA Fisheries species or critical habitat. These levees would in turn be compared to Corps inspection criteria. The purpose of this project is to assist the Corps in determining a consultation priority order.
- (4) In the preparation of an environmental impact statement (EIS) for the Sacramento-San Joaquin Delta Islands and Levees Feasibility Study (Delta Study). The Delta Study and subsequent EIS will analyze the environmental impacts associated with alternatives for restoring sustainable ecosystem functions and improving flood risk management in the Delta, Suisun Marsh, and adjacent areas.

The Corps is anticipating active participation from NMFS staff for all of the above projects. The Sacramento Bank project alone would require substantial NMFS staff time if active participation is the goal. Adding any of the other mentioned projects to the work load would only enhance any time commitment.

Currently, there is no specific funding in place for any of the above mentioned projects, thus the allocation of staff time is a challenge. As such, to ensure NMFS participation meets the expectations and needs of the Corps, NMFS requests funding support through an interagency agreement. Without this support, the level of NMFS participation is unknown due to ongoing staff support of other projects to which NMFS is already obligated.

NMFS requests that you and Colonel William J. Leady arrange a meeting with NMFS Central Valley Office Supervisor, Maria Rea, to discuss this project and other Corps Sacramento District flood management planning efforts. In part, the purpose of this meeting would be to align NMFS staff resources with Corps planning objectives in the Central Valley.

Please contact Michael Hendrick at (916) 930-3605, or via e-mail at Michael.Hendrick@noaa.gov if you have any questions or require additional information.

Sincerely,



Maria Rea
Supervisor, Central Valley Office

cc: Copy to file: ARN 151422SWR2013SA00015
NMFS-PRD, Long Beach, CA






Response to Letter F3

F3-A

Comment noted. No response required. Comment did not necessitate change to the Final EIS.

2.2 Tribal Comments and Responses

Letter T1—United Auburn Indian Community of the Auburn Rancheria, Gene Whitehouse, Chairman, February 13, 2013

					Letter T1	
<hr/>						
MIWOK MAIDU	United Auburn Indian Community of the Auburn Rancheria	Gene Whitehouse Chairman	John L. Williams Vice Chairman	Don Rey Jr. Secretary	Brenda Adams Treasurer	Calvin Moman Council Member

February 13, 2012

Alicia E. Kirchner
Chief, Planning Division
Department Of The Army
U.S. Army Engineer District, Sacramento
Corps Of Engineers
1325 J Street
Sacramento, California 95814-2922

Subject: Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Feather River West Levee Project

Dear Ms. Kirchner:

Thank you for initiating formal consultations with the United Auburn Indian Community (UAIC) of the Auburn Rancheria on the proposed Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Feather River West Levee Project (FRWLP). The UAIC is comprised of Miwok and Nisenan (Southern Maidu) people whose tribal lands are within Placer County and ancestral territory spans across El Dorado, Nevada, Sacramento, Sutter, and Yuba counties. The UAIC is concerned about development within its aboriginal territory that has potential to impact the lifeways, cultural sites, and landscapes that may be of sacred or ceremonial significance. We appreciate the opportunity to comment on this project.

T1-A We have reviewed the DEIS/DEIR FRWLP and found it very disheartening to find that our previous consultation efforts were not included in the Native American Consultation Sections of the report. The UAIC has met with the USACE and ICF on several two occasions to share resource location maps and are still waiting to complete a site visit to known resources. More than one Nisenan ethnographic village known to be in the APE has been disclosed and consulted on with both ICF and the USACE. Archaeological mounds have even been described as still being present and visible in the project area and even below the existing levees. We would like it if both ICF and the USACE include in the DEIS/DEIR FRWLP a record consultation with the UAIC and provide us with any cultural resources reports that have been or will be prepared for this project.

T1-B Based on the information contained in the DEIS/DEIR FRWLP, the UAIC understands that prehistoric cultural resources have been observed within the study area and were any identified as part of the record search process. The Tribe continues to express concern regarding the possibility for discovery of previously unidentified cultural resources and/or subsurface human remains, particularly in the case of ground disturbing activities such as those being proposed.

In order to ascertain whether or not the project could affect cultural resources that may be of importance to the UAIC, we would like to receive copies of any archaeological reports that have been, or will be, completed for the project. We also request copies of future environmental documents for the proposed project so that we have the opportunity to comment on potential impacts and proposed mitigation measures related to cultural resources. The information gathered will provide us with a better understanding of the project and cultural resources on site and is invaluable for consultation purposes.

Tribal Office 10720 Indian Hill Road Auburn, CA 95603 (530) 883-2390 FAX (530) 883-2380



MIWOK United Auburn Indian Community
MAIDU of the Auburn Rancheria

Gene Whitehouse
Chairman

John L. Williams
Vice Chairman

Don Rey Jr.
Secretary

Brenda Adams
Treasurer

Calvin Moman
Council Member

T1-C Please contact us if any Native American cultural resources are in, or found to be within, your project area.

We would like to make a few general points for consideration in developing the scope and choosing the alternative for the DEIS/DEIR FRWLP:

T1-D

- The UAIC recommends that projects within the DEIS/DEIR FRWLP jurisdiction be designed to incorporate known cultural sites into open space or other protected areas;
- The UAIC would like the opportunity to provide Tribal representatives to monitor projects if excavation and data recovery are required for prehistoric cultural sites, or in cases where ground disturbance is proposed at or near sensitive cultural resources;
- The UAIC is interested in receiving cultural materials from prehistoric sites where excavation and data recovery has been performed;
- The UAIC would like to receive copies of environmental notices and documents for projects within the jurisdiction of the DEIS/DEIR FRWLP;
- The UAIC would like to receive all confidential cultural and archaeological reports within the jurisdiction of the DEIS/DEIR FRWLP.

T1-E

If human remains are discovered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the county coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the coroner determines that the remains are of Native American origin, the coroner will notify the Native American Heritage Commission, which will notify a Most Likely Descendant (MLD). The MLD shall be responsible for recommending the appropriate disposition of the remains and any grave goods at that time.

T1-F

Thank you in advance for taking these matters into consideration, and for involving the UAIC in the planning process as early as possible. We look forward to continuing the consultation and reviewing the any reports upon completion. Please contact Marcos Guerrero, cultural resources specialist, at (530) 883-2364 or email at mguerrero@auburnrancheria.com.

Sincerely,

Gene Whitehouse,
Chairman

CC: Marcos Guerrero, CRM

Tribal Office 10720 Indian Hill Road Auburn, CA 95603 (530) 883-2390 FAX (530) 883-2380

Response to Letter T1

T1-A

Comment noted. Please see the revisions to the “Contact with Interested Parties” section on page 3.17-6. SBFCA is updating the record of all consultations with the Native American community including the United Auburn Indian Community. Please also note that USACE and SBFCA have committed to ongoing consultation with the Native American community in the programmatic agreement being developed for compliance with Section 106 of the National Historic Preservation Act (NHPA); and as the commenter indicated both USACE and SBFCA contractors have met with the Native American community. The record has been updated appropriately and documentation of surveys has been provided. The input and consultation efforts extended by the United Auburn Indian Community are valued and welcomed for the project.

T1-B

Comment noted. SBFCA and USACE welcome the consultation efforts of the United Auburn Indian Community. Documentation of cultural resource management efforts and future environmental documents will be provided when available. USACE will continue to consult with tribes regarding the identification, evaluation, and treatment of cultural resources identified in the area of potential effects (APE). Comment did not necessitate change to the Final EIS.

T1-C

Comment noted. Please refer to the response to comment T1-B above.

T1-D

Comment noted. Please refer to the responses to comments T1-A and T1-B, above.

- The commenter also requests that SBFCA and USACE consider preservation of affected resources in open space. Because flood protection measures are constrained by the location of the existing levees, preservation is not always feasible.
- Please note that SBFCA and USACE will make use of archaeological monitors if appropriate.
- SBFCA and USACE must defer to the California Native American Heritage Commission in designating the most-likely descendant (MLD) under California Public Resources Code Section 5097.98. The MLD will determine how to manage Native American remains and associated objects.
- As stated in responses above, USACE will continue to consult with tribes and will provide documentation of cultural resource and other environmental studies.

T1-E

Comment noted. SBFCA has already committed to compliance with these laws; however, confirmation that these are the applicable statutes is appreciated. Comment did not necessitate change to the Final EIS.

T1-F

Comment noted. SBFCA would like to thank the United Auburn Indian Community for their consultation efforts. Comment did not necessitate change to the Final EIS.

2.3 State Agency Comments and Responses

Letter S1—California Department of Water Resources. Division of Operations and Maintenance, Leroy Ellinghouse, Chief of the SWP Encroachments Section, January 19, 2013

	<p style="text-align: right;">Letter S1</p> <p>January 19, 2013</p> <p>U.S. Army Corps of Engineers, Sacramento District Attn: Mr. Jeff Koschak 1325 J Street Sacramento, California 95814-2922</p> <p>S.B. 2161 Review of 4-ORO-29, draft Environmental Impact Statement/Environmental Impact Report for Feather River West Levee Project, U.S. Army Corps of Engineers, Sutter Butte Flood Control Agency, Oroville Field Division, Butte County</p> <p>Dear Mr. Koschak:</p> <p>The Sutter Butte Flood Control Agency is requesting permission from the U.S. Army Corps of Engineers to repair sections of the levee along 41 miles of the Feather River. The proposed work would extend south from Thermalito Afterbay to approximately the Route 99 Bridge over the Feather River. The alternatives, including slurry walls, seepage berms, dredging, and removal of unauthorized encroachments, may be viewed at</p> <p style="text-align: center;">www.spk.usace.army.mil/</p> <p>S1-A The proposed plans indicate that the work may include areas adjacent to the Thermalito Afterbay as well as the River Outlet Works, part of the Department of Water Resources (DWR) Right-of-Way (ROW).</p> <p>Any development that affects DWR ROW will require an Encroachment Permit from DWR prior to the start of construction. Information on obtaining an encroachment permit from DWR can be viewed at:</p> <p style="text-align: center;">http://www.water.ca.gov/engineering/Services/Real_Estate/Encroach_Rel/</p> <p>Please provide DWR with a copy of any subsequent environmental documentation when it becomes available for public review. Any future correspondence relating to this project should be sent to:</p> <p>S1-B</p> <p style="text-align: center;">Leroy Ellinghouse, Chief SWP Encroachments Section Division of Operations and Maintenance Department of Water Resources 1416 Ninth Street, Room 641-1 Sacramento, California 95814</p> <p>↓</p>
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S1-B
cont'd

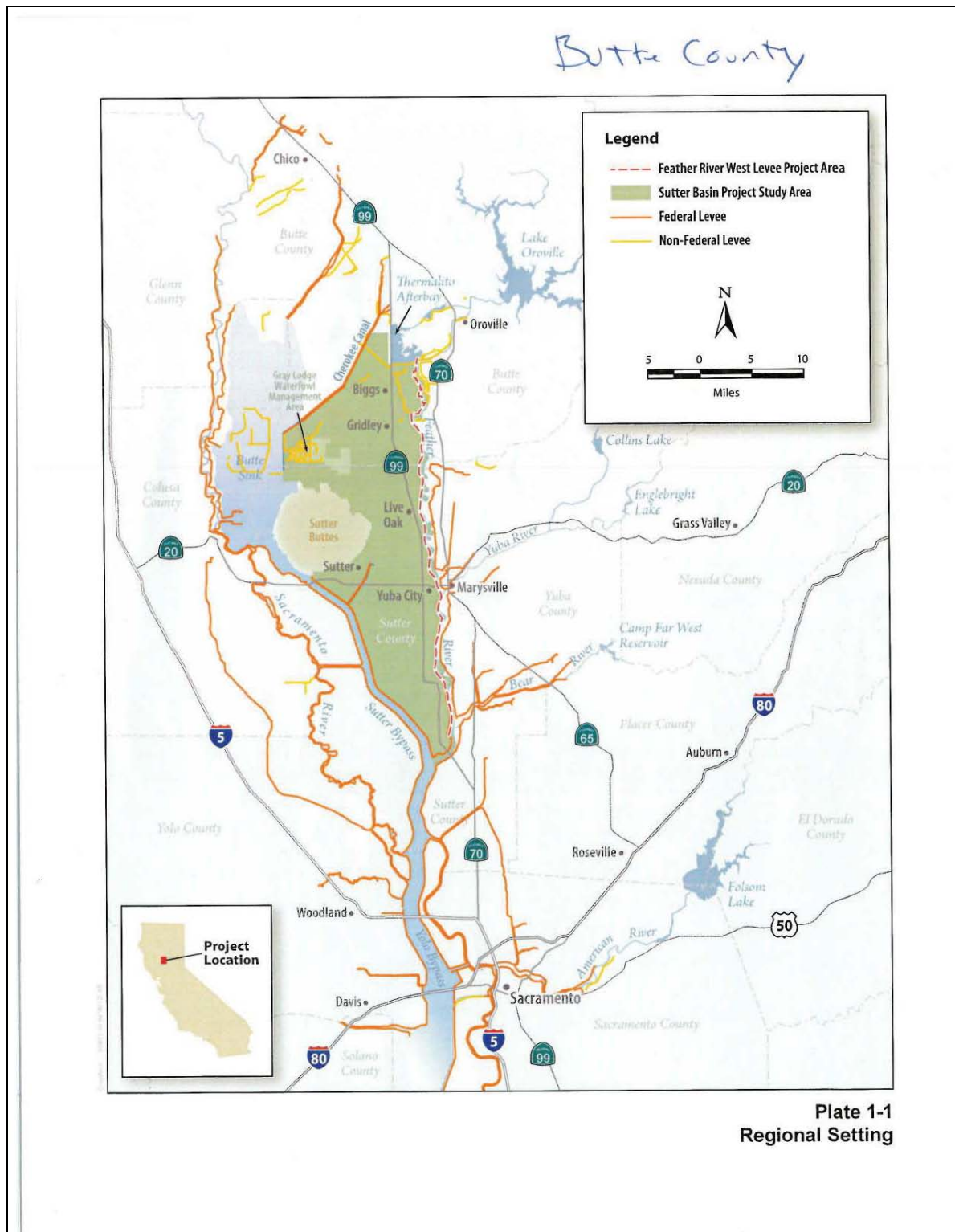
↑
If you have any questions, please contact Leroy Ellinghouse, Chief of the SWP Encroachments Section, at (916) 653-7168 or Mike Anderson at (916) 653-6664.

Sincerely,

Leroy Ellinghouse, Chief
State Water Project Encroachment Section
Division of Operations and Maintenance

Bcc Dave Duvall, 650
Sheree Edwards, 641-3
Leroy Ellinghouse, 641-2
Pete Scheele, OFD
Bill Dickens, OFD
Paul Dunlap, 605
Angelica Aguilar, 425
Geoff Shumway, 425

M:\HQ\SWP Operations Support\Civil Maint\SWP Encroachment Section\Mike\2161's\4-ORO-29 Army COE upgrades.docx



Response to Letter S1


S1-A

Comment noted. SBFCA will obtain an encroachment permit prior to the start of any construction that affects California Department of Water Resources (DWR) right-of-way. Comment did not necessitate change to the Final EIS.

S1-B

Comment noted. SBFCA will provide copies of any subsequent environmental documentation to the contact provided. Comment did not necessitate change to the Final EIS.

Letter S2—California Department of Water Resources. Division of Operations and Maintenance, Leroy Ellinghouse, Chief of the SWP Encroachments Section, January 22, 2013

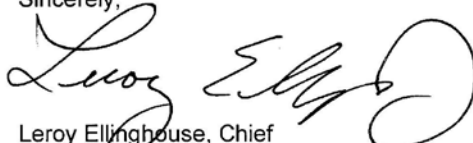
Letter S2	
STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES AGENCY	
EDMUND G. BROWN JR, Governor	
DEPARTMENT OF WATER RESOURCES	
1416 NINTH STREET, P.O. BOX 942836 SACRAMENTO, CA 942360001 (916) 653-5791	
	
January 22, 2013	
U.S. Army Corps of Engineers, Sacramento District Attn: Mr. Jeff Koschak 1325 J Street Sacramento, California 95814-2922	
S.B. 2161 Review of 4-ORO-29, Draft Environmental Impact Statement/Environmental Impact Report for Feather River West Levee Project, U.S. Army Corps of Engineers, Sutter Butte Flood Control Agency, Oroville Field Division, Butte County	
Dear Mr. Koschak:	
S2-A	The Sutter Butte Flood Control Agency is requesting permission from the U.S. Army Corps of Engineers to repair sections of the levee along 41 miles of the Feather River. The proposed work would extend south from Thermalito Afterbay to approximately the Route 99 Bridge over the Feather River. The proposed plans indicate that the work may include areas adjacent to the Thermalito Afterbay as well as the River Outlet Works, part of the Department of Water Resources (DWR) Right-of-Way (ROW).
	Any development that affects DWR ROW will require an Encroachment Permit or Agreement from DWR prior to the start of construction. Information on obtaining an Encroachment Permit from DWR can be viewed at: http://www.water.ca.gov/engineering/Services/Real_Estate/Encroach_Rel/
S2-B	Please provide DWR with a copy of any subsequent environmental documentation when it becomes available for public review. Any future correspondence relating to this project should be sent to: Leroy Ellinghouse, Chief SWP Encroachments Section Division of Operations and Maintenance Department of Water Resources 1416 Ninth Street, Room 641-1 Sacramento, California 95814

Mr. Koschak
January 22, 2013
Page 2

S2-B
cont'd

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If you have any questions, please contact Leroy Ellinghouse, Chief of the SWP
Encroachments Section, at (916) 653-7168 or Mike Anderson at (916) 653-6664.

Sincerely,



Leroy Ellinghouse, Chief
State Water Project Encroachment Section
Division of Operations and Maintenance

Response to Letter S2

S2-A

Comment noted. SBFCA will obtain an encroachment permit prior to the start of any construction that affects California Department of Water Resources (DWR) right-of-way. Comment did not necessitate change to the Final EIS.

S2-B

Comment noted. SBFCA will provide copies of any subsequent environmental documentation to the contact provided. Comment did not necessitate change to the Final EIS.

Letter S3—California Department of Water Resources, Erin Brehmer, Environmental Scientist, February 11, 2013

Letter S3

From: Brehmer, Erin@DWR [<mailto:Erin.Brehmer@water.ca.gov>]
Sent: Monday, February 11, 2013 3:57 PM
To: Norgaard, Ingrid
Cc: Unger, Ronald@DWR; Fasani, Jennifer@DWR
Subject: Feather River West Levee comments

Please find comments for the FRWLP below:

FRWLP 408 permission EIS/EIR comments

S3-A

Chapter 3.6.4 Climate Change and Greenhouse Gas:

Recommend using language from Central Valley Flood Protection Plan section 3.7.
Please see link below.

S3-B

Chapter 4.2.4.6 Cumulative Impacts, Climate Change:

The Central Valley Flood Protection Plan determined that this does not have a significant impact. Recommend using language from Central Valley Flood Protection Plan section 4.4.2. Please see link below.

<http://www.water.ca.gov/cvfm/documents.cfm>

Sincerely,

Erin Brehmer

Environmental Scientist
DWR: Division of Flood Management
Flood Corridor Program and Environmental Support
3464 El Camino Avenue, Suite 200
Sacramento, Ca. 95821

(916)574-2313
erin.brehmer@water.ca.gov

Response to Letter S3

S3-A

Language taken from discussion on California Department of Water Resources (DWR) strategies in the *Climate Change Adaptation Strategies for California's Water* white paper on pages 3.7-31 to 32 in the Central Valley Flood Protection Plan Programmatic EIR Section 3, is now included under "Existing Flood Risk Management Activities" in Section 3.6.2.2, *Environmental Setting*, in the FRWLP EIS.

S3-B

Language taken from the *Climate Change and Greenhouse Gases* discussion on pages 4.32 to 4.33 in the Central Valley Flood Protection Plan Programmatic EIR Section 4, is now included in Section 4.2.4.6, *Climate Change*, in the FRWLP EIS.

Letter S4—California Department of Fish and Wildlife, Tina Bartlett, Regional Manager, February 11, 2013



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region/Region 2
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
www.cdfw.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



Letter S4

February 11, 2013

Jeff Koschak (CESPK-PD-RP)
U.S. Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

**Subject: Draft Environmental Impact Statement/Environmental Impact Report
(EIS/EIR) for the Feather River West Levee Project, SCH#
2011052062, Butte and Sutter Counties**

Dear Mr Koschak:

On September 27, 2012, the California Department of Fish and Game, now known as the California Department of Fish and Wildlife (Department), received a draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) from the U.S. Army Corps of Engineers, requesting comments on the Sutter Butte Flood Control Agency's (SBFCA) proposed Feather River West Levee Project (Project) in Butte and Sutter County. The Department appreciates the U.S. Army Corps of Engineers (Corps) willingness to accept comments on the Project until February 11, 2013. The Department offers the following comments and recommendations on this DEIS/EIR in our role as a trustee and responsible agency Pursuant to Section 15082(b) of the California Environmental Quality Act (CEQA) Guidelines, and the California Public Resource Code §21000 et seq. As a trustee for California's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a responsible agency, the Department administers the California Endangered Species Act (CESA), the Native Plant Protection Act, and other provisions of the Fish and Game Code (FGC) that conserve the State's fish and wildlife public trust resources.

S4-A

The Department's most substantial environmental concerns relate to the Project's potential impacts to State listed species and habitat, as explained below, and how the Project as proposed may lead to additional cumulative effects.

The comments provided herein are based on the information provided in the DEIS/EIR, our knowledge of species and habitat in the Project area, and our involvement with regional conservation planning efforts. Comments are limited to the Project and alternatives that are likely to result in biological impacts.

Project Overview and Description

The SBFCA Project, as proposed, would involve (1) installing approximately 34 miles of soil and bentonite cutoff walls (0.68 mile with associated ditch fill), (2) constructing 0.72 mile of seepage berms, (3) placing 0.42 mile of ditch fill, (4) dredging 1.8 miles of canal,

Conserving California's Wildlife Since 1870

Ms. Koschak
February 11, 2013
Page 2

S4-A
cont'd

and (5) relocating or removing encroachments along approximately 3.44 miles of the Feather River west levee. The Project area would extend approximately 41 miles from the Thermalito Afterbay downstream of Oroville Dam south to a point approximately 1.7 miles north of the Route 99 bridge over the Feather River. When completed the work would reduce potential flooding, flood damages, and public risk in the Project area by eliminating or reducing these known levee deficiencies, including through- and under-seepage, slope stability, erosion, and encroachments within the construction footprint.

Threatened, Endangered and Special Concern Species

The DEIS/EIR biological analysis discloses that the Project will have impacts to State-listed species and sensitive habitats. Because the Project analyzed a number of alternatives, the final determination of direct and indirect impacts will depend on the preferred Project selected. The Project generally identifies that there will be impacts to riparian habitat, large mature trees, habitat for bank swallow (*Riparia riparia*), giant garter snake (*Thamnophis gigas*) (GGS) and Western burrowing owl (*Athene cunicularia*) (WBO). The Project will potentially also impact Swainson's hawk and other migratory raptors, their nests and their foraging habitats. Additionally, the Project may adversely impact Central Valley Spring-run Chinook salmon (*Oncorhynchus tshawytscha*).

Any activity resulting in loss of habitat, decreased reproductive success, or other negative effects on population levels of State-listed endangered or threatened species should be addressed. If it is not possible to avoid impacts to special status species, mitigation should be provided which fully mitigates project impacts. Activities resulting in the unavoidable "take" of a state-listed plant or animal species would require the project proponent to obtain a permit from Department pursuant to Section 2081 of the California Fish and Game Code.

The Project provides general avoidance and minimization measures and concludes that with implementation of the measures, the impacts would be reduced to below the level of significance pursuant to CEQA. The Department has concerns about the completeness of the impact analysis with regard to the following issues below.

Giant garter snake and Western burrowing owl

S4-B

Potential Project impacts to GGS and WBO that have not been fully analyzed include activities that will remove, compact, fill, or otherwise impact rodent burrows and the species that may use them. The Project should quantify potential burrow habitat, concrete debris and structures that may provide habitat for these species, and provide measures to avoid and minimize the impacts and provide permanent mitigation for permanent impacts to these habitats.

The cumulative impacts of loss of burrow habitat from the Project also need to be analyzed in conjunction with other near foreseeable projects in the vicinity, and ongoing maintenance in the area to address cumulative impacts.

The DEIS/EIR concludes that construction activities will directly impact rodent burrows during earth moving activities, however, the analysis fails to discuss or analyze the

Ms. Koschak
February 11, 2013
Page 3

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S4-B
cont'd
impact of the practice of grouting of rodent burrows and the impact of this on GGS or WBO. If this measure will be used in advance of the Project or as part of the Project maintenance, the Department advises that the direct, indirect and cumulative impacts of grouting be addressed in the DEIS/EIR. The impact to sensitive species from grouting is potentially significant and measures to avoid, minimize and mitigate the impacts to GGS and WBO should be included in the analysis.

Grouting rodent burrows, if included in long-term maintenance of the Project may result in a significant permanent loss of rodent burrows that provide wintering refugia for GGS and WBO. Burrows also provide habitat necessary for essential biological functions outside the winter period. Grouting constitutes a permanent hardening of the existing earthen levees which precludes development of future rodent activity or replacement burrow habitat for GGS and WBO. The DEIS/EIR should provide a discussion of this along with an analysis of permanent habitat impacted for the purposes of mitigation for loss of this habitat.

Swainson's hawk and nesting birds

S4-C
The DEIS/EIR provides a set of general avoidance, minimization and mitigation measures to protect Swainson's hawk and other nesting birds. The measures suggested do not include avoidance of active nest sites during the breeding season by employing an enforceable construction activity buffer distance from the nest(s). The Department recommends that an avoidance measure be added for each bird species that may potentially be directly or indirectly impacted by the Project. The avoidance buffer may be different depending on the species but should be added to the measures to avoid take of the species. It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird (FGC § 3503).

Staging, Spoils and Borrow sites

S4-D
The DEIS/EIR discloses that the estimated impacts to habitat do not include a complete analysis of all potential sites where construction equipment, soil, rock or other materials will be staged for the Project. The document notes a number of storage sites where materials may be deposited or stored, however, also notes that additional sites may be identified in the future upon implementation of the Project. The direct and indirect impacts associated with storage and spoils sites must be identified, analyzed and disclosed as part of the Project as these sites may contribute to impacts to habitats and species and may require additional mitigation.

Riparian Habitat

S4-E
↓
Riparian habitat is an extremely important vegetation community in California and it is estimated that less than 10 percent remains of the historical acreage. More than 90 species of mammals, reptiles, invertebrates and amphibians such as California red-legged frog (*Rana draytonii*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) and riparian brush rabbit (*Sylvilagus bachmani riparius*) depend on California's riparian habitats. Over 135 species of California birds such as the willow flycatcher (*Empidonax traillii*), western yellow-billed cuckoo (*Coccyzus americanus*)

Ms. Koschak
February 11, 2013
Page 4

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- S4-E
cont'd
- occidentalis*) and red-shouldered hawk (*Buteo lineatus*) either use riparian habitats preferentially at some stage of their life history or are completely dependant upon them. This habitat provides food, nesting habitat, cover, and migration corridors for hundreds of different species. In addition to its significance for biological resources, riparian habitat also provides riverbank protection, erosion control and improved water quality.
- S4-F
- The DEIS/EIR discloses that the Project intends to comply with the April 2009 Corps General Technical Letter (ETL) 1110-2-571, which set forth guidelines for vegetation management on levees, floodwalls, embankment dams and appurtenant structures for the control of vegetation on levees. The guidelines recommend that a vegetation-free zone be established on all of these structures.
- S4-G
- The 2009 Corps guidelines advise that the vegetation free zone be at least the width of the levee, including all critical appurtenant structures, plus 15 feet on each side, measured from the outer edge of the outermost critical structure. In the case of a landside planting berm, the 15 feet is measured from the point at which the top surface of the planting berm meets the levee section. The guidelines recommend that the vegetation free zone should be limited, in general, to approved grasses.
- S4-H
- In light of the Project anticipating application of the 2009 Corps vegetation free zone, there will be a significant removal of riparian vegetation throughout the Project corridor. The DEIS/EIR fails to provide sufficient information regarding the impacts to riparian habitats or adequate measures to reduce, minimize or mitigate these impacts to reduce them to below the level of significance pursuant to CEQA. The DEIS/EIR analysis does estimate that there are approximately 241 acres of riparian forest and 22 acres of riparian scrub-shrub habitat within the Project area. In addition to these estimates an additional 12 acres of riparian forest is identified in association with jurisdictional wetlands. For this analysis to be complete, it should include a comprehensive quantification of direct and indirect impacts, and temporary and permanent impacts for all riparian habitat, riparian trees, shaded riverine aquatic habitat, and riparian wetlands that will be affected by the Project. All riparian trees that will be removed, that are greater than four inches in diameter at breast height, should also be identified by species.
- S4-I
- A riparian restoration plan should be prepared that includes how and where the riparian impacts will be restored, mitigated, and monitored. If restoration will be the primary mitigation for the impacts then complete monitoring details should also be developed and should include specific success criteria for riparian restoration plantings, funding assurances for the cost of planting and monitoring, and the process for replanting to achieve an identified target survival of trees, species of trees, and percentage of tree canopy. Restoration shall occur on property that will be protected in perpetuity and managed for riparian habitat.
- ↓
- Proposed mitigation proposals shall be consistent with the Department's "Policy for Mitigation on Publicly Owned, Department Owned and Conservation Lands" (attached Departmental Bulletin #2012-02). If mitigation is proposed on Department lands, any cost associated with updating management plans, CEQA compliance and management activities shall be provided to the Department.

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Page 5

S4-I
cont'd

Notification to the Department may be required, pursuant to FGC §1600 et seq. if the project proposes to: divert, obstruct, or change the natural flow or the bed, channel or bank of any river, stream, or lake; use material from a streambed; or result in the disposal or deposition of debris, waste, or other material where it may pass into any river stream, or lake.

Recreation on Department Lands

S4-J

The DEIS/EIR notes that nine separate wildlife management units from the Oroville and Feather River Wildlife Areas have the potential to be impacted by this project. Portions of these lands are slated to be closed during construction. For areas remaining partially open, the document suggests that traffic and project noise may create disturbances to users. The levee system is a primary route of transportation for those enjoying these wildlife areas. Special hunts in delineated fields are just some of the many site-specific recreation activities provided by the Department annually. The proximity of seemingly similar habitat does not insure a similar recreation experience. The DEIS/EIR should provide a discussion of the disproportionally high recreational use on and near the levee and include analysis of the loss of opportunity to areas having site-specific importance.

Cumulative Impact Analysis

S4-K

The DEIS/EIR generally discusses potential near foreseeable projects, however, the discussion is limited and fails to capture the potentially significant impacts of the Project relative to other large projects in the area. The Department recommends that the cumulative impact analysis be expanded in particular to include other near foreseeable levee construction and maintenance projects, linear corridor projects proximate to the Project, including but not limited to, transportation and utility projects.

Conclusion

S4-L

The Department appreciates the opportunity to provide comments on the Project and we hope you will contact us if you would like to discuss our concerns, comments, and recommendations in greater detail. We also recommend early coordination in the review of the preferred Project analysis and subsequent analysis of impacts to biological resources and to facilitate processing of any Department permits.

If you have any questions, please contact Jenny Marr, Staff Environmental Scientist, 1701 Nimbus Road, Rancho Cordova, CA, 95670, (530) 895-4267 or at Jenny.Marr@wildlife.ca.gov.

Sincerely


Tina Bartlett
Regional Manager

cc's and ec's: Page 6

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cc: Ingrid Norgaard
Sutter Butte Flood Control Agency
c/o ICF International
630 K Street, Suite 400
Sacramento, CA 95814

U.S. Fish and Wildlife
ATTN: Jason Hanni
2800 Cottage Way, Suite W-2606
Sacramento, CA 95825

ec: Jeff Drongesen
Jenny Marr
Department of Fish and Wildlife

State Clearinghouse

Response to Letter S4

S4-A

California Department of Fish and Wildlife's (CDFW) review and input is appreciated. SBFCA looks forward to working with the CDFW toward completion of this project and future multi-benefit actions in collaboration with CDFW. Comment did not necessitate change to the Final EIS.

S4-B

A discussion of potential effects on burrows that provide habitat for giant garter snake and western burrowing owl has been added to Section 3.9 of the Final EIS. A discussion of the effects of maintenance activities on habitat for these species has also been added to the Final EIS, as well as Mitigation Measure WILD-MM-7 to minimize effects on habitat, including burrows, grouting of burrows if it is employed, and to compensate for this loss through regional habitat conservation plans/natural community conservation plans (HCPs/NCCPs). The project's contribution to the cumulative loss of burrow habitat was added to the cumulative discussion.

S4-C

Mitigation Measures WILD-MM-11 and WILD-MM-13 (formerly Mitigation Measures WILD-MM-7 and WILD-MM-9) both contain language for implementing no-disturbance buffers for active nests. Mitigation Measure WILD-MM-11 states "If active [Swainson's hawk] nests are found, SBFCA will maintain a 0.25-mile buffer or other distance determined appropriate through consultation with CDFW, between construction activities and the active nest(s) until it has been determined that young have fledged." Mitigation Measure WILD-MM-13 states "If active nests are found in the survey area, no-disturbance buffers will be established around the nest sites to avoid disturbance or destruction of the nest site until the end of the breeding season (approximately September 1) or until a qualified wildlife biologist determines that the young have fledged and moved out of the project area (this date varies by species). The extent of the buffers will be determined by the biologists in coordination with USFWS and CDFW and will depend on the level of noise or construction disturbance, line-of-sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. Suitable buffer distances may vary between species."

S4-D

Potential borrow sites and access routes have been added to the project study area and effects on biological resources in these areas have been accounted for in Sections 3.8, 3.9 and all applicable tables in the Final EIS. All staging areas are expected to be within the construction footprint and have also been accounted for in the project study and effects on biological resources in these areas have been accounted for in Sections 3.8, 3.9 and all applicable tables in the Final EIS.

S4-E

It is agreed and acknowledged that riparian habitat is very valuable and has been subject to substantial loss since the mid-19th century. SBFCA has worked aggressively and iteratively with its engineering and environmental team to maximize avoidance and minimization of effects through adjustment of the construction footprint, use of protective barriers, and changes in construction practices. Beyond the FRWLP, to improving fish and wildlife habitat, the SBFCA Board and the coalition of environmental organizations have agreed to a Memorandum of Understanding that commits to pursuing several identified multi-benefit actions for floodplain restoration and others

that may be identified through the Feather River Regional Flood Management Plan, including riparian enhancements. Constructing the FRWLP is essential as the foundation upon which restoration building blocks can be laid. Comment did not necessitate change to the Final EIS.

S4-F

It should be noted that the project does not propose to apply the USACE levee vegetation policy. Only vegetation within the direct construction footprint of levee work would be removed. The document states this in Chapter 1, on page 1-14, third paragraph.

S4-G

While the project proposes to remove woody vegetation within the direct construction footprint of levee work, it should be noted that the project does not propose to apply the 2009 USACE vegetation-free zone as stated in the comment. SBFCA has worked with its engineering and environmental team to maximize avoidance of effects on woody vegetation through adjustment of the construction footprint, use of protective barriers, and changes in construction practices. Impacts to vegetation and trees are quantified in Chapter 3, Section 3.8, Tables 3.8-6, 3.8-7, and 3.8-8. Comment did not necessitate change to the Final EIS.

S4-H

An MMP including riparian habitat restoration has been drafted per the guidelines noted in the comment (see Appendix F.3). The plan will be finalized based on input from the permitting agencies, including CDFW. In brief, effects on riparian habitat will be mitigated through plantings in the Star Bend floodplain restoration area, supplementing the existing plantings.

S4-I

An MMP has been drafted to be consistent with CDFW's policy referenced in the comment. It is understood that the mitigation action is subject to CDFW authorization, as well as other environmental permits. The authorizations for the FRWLP are intended to provide coverage for mitigation at the Star Bend site. The MMP is included as Appendix F.3.

S4-J

The text in *Effects and Mitigation Measures*, Section 3.14.4, has been revised to acknowledge the unique recreation opportunities provided by the CDFW wildlife areas along the Feather River in the project area. For each affected recreation location (including the individual CDFW Oroville Wildlife Area [OWA] and Fern Ridge Wildlife Area [FRWA] management units), a nearby alternative location for a similar recreation experience is listed.

S4-K

At the request of CDFW, SBFCA contacted TRLIA and PG&E to confirm completeness of reasonably foreseeable actions currently considered in the cumulative effects analysis. TRLIA verified the Agency has no additional projects to consider. PG&E suggested inclusion of the Palermo to East Nicolaus transmission project, which has now been added into the discussion and analysis in Chapter 4. The Sutter Basin Feasibility Study is effectively analyzing the same action and would result in effects to be cumulatively considered.

S4-L

Understood; SBFCA looks forward to coordinating with CDFW for this project and future actions.
Comment did not necessitate change to the Final EIS.

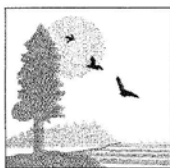
Letter S5—California State Lands Commission, Division of Environmental Planning and Management, Cy R. Oggins, Chief, February 11, 2013

STATE OF CALIFORNIA

Letter S5

EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE LANDS COMMISSION
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JENNIFER LUCCHESI, *Executive Officer*
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February 11, 2013

File Ref: SCH #2011052062

Mike Inamine
Sutter Butte Flood Control Agency
1227 Bridge Street, Suite C
Yuba City, CA 95991

**Subject: Draft Joint Environmental Impact Statement/Environmental Impact
Report (DEIS/DEIR) for the Feather River West Bank Levee Project,
Sutter and Butte Counties**

Dear Mr. Inamine:

The California State Lands Commission (CSLC) staff has reviewed the subject DEIS/DEIR for the Feather River West Bank Levee Project (Project), which is being prepared by the Sutter Butte Flood Control Agency (SBFCA), and the Army Corps of Engineers (USACE). The SBFCA, as a public agency proposing to implement the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The USACE, as a federal agency with oversight and authorization authority over federal project levees, is the lead agency under the National Environmental Policy Act (NEPA) (42 USC §4321 et seq.). The CSLC is a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways (Pub. Resources Code, §§6301, 6216). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On navigable non-tidal waterways, including lakes and

Mike Inamine

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rivers, the State holds fee ownership of the bed of the waterway between the ordinary low water marks and a Public Trust easement between the ordinary high water marks and ordinary low water marks. On waterways that have been artificially manipulated due to fill, avulsion or artificial accretion, or where the boundary has been fixed by an agreement or court, sovereign land and the public trust easement may not be readily apparent from present day site inspections.

The Feather River is a non-tidal, navigable river in which the State owns the bed of the river from its mouth with the Sacramento River to above Oroville, within the entire Project area. Due to past construction of levees, gravel and sand extraction, channelization, and the upstream dam, CSLC staff does not have sufficient information to determine whether the Project will intrude upon State-owned sovereign lands, at this point. Conducting a boundary determination for the 41-mile length of the Project would be expensive and time-consuming. CSLC staff does not believe such an expenditure of time, effort and money is warranted in this situation, given the limited resources of the agency and the circumstances set forth above. This conclusion is based on the location, characteristics, historic evidence, and circumstances of the river channel and the proposed Project. Therefore, the CSLC staff has concluded that it is presently undetermined whether the location of the proposed Project will intrude upon lands under the jurisdiction of the CSLC and will not require a lease. This determination is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction. While the CSLC is not requiring a lease at this time, it is providing comments on the DEIS/DEIR as a trustee agency, as described in the introductory paragraph.

Project Description

The SBFCA and the USACE propose to construct improvements to the Feather River West Bank Levee to meet the SBFCA's objectives and needs as follows:

- Reduce flood risk from the Feather River toward a target of 200-year-flood protection for urbanized areas and 100-year-flood protection for more rural or agricultural areas;
- Protect existing populations and minimize exposure to flooding for agricultural commodities, infrastructure use, and other property;
- Address known levee deficiencies and observed performance issues, such as through-seepage, under-seepage, embankment instability, erosion, and encroachments;
- Construct the Project as soon as possible to reduce flood risk quickly and facilitate compatibility with recreation and restoration goals in the planning area.

The Project area is focused on a corridor along the west levee of the Feather River that is approximately 41 miles long. The north end of the Project area is at Thermalito Afterbay and the south end of the Project area is roughly 4 miles north of Sutter Bypass. This corridor is roughly 500 feet toward the land side of the existing levees and 100 feet toward the water side. The Project area also contains some borrow and spoil sites or mitigation sites outside of the levee construction corridor for specific alternatives.

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From the Project Description, CSLC staff understands that the Project would include the following components, which are combined to create the alternatives considered in the Project:

- Slurry cutoff walls
- Slope flattening
- Stability berms
- Levee reconstruction
- Sheet-pile walls
- Seepage berms
- Relief wells
- Depression/ditch infilling
- Clay ditch lining
- Limited encroachment removal
- Canal seepage treatment

The DEIS/DEIR also describes the following alternatives.

- Alternative 1 focuses on the measures that would remain within the existing levee footprint. Alternative 1 minimizes real estate acquisition and changes in land use; this alternative primarily uses cutoff walls to address levee deficiencies.
- Alternative 2 uses measures that would not be constrained by the existing footprint of the levee. Alternative 2 may address levee deficiencies with greater effectiveness and less cost than Alternative 1. Alternative 2 uses stability berms and seepage berms that would extend well beyond the existing levee footprint.
- Alternative 3 is a combination of the flood management measures identified in Alternatives 1 and 2. The combination of measures used in Alternative 3 were determined by considering their effectiveness in addressing levee deficiencies, compatibility with land use, minimization of real estate acquisition, avoidance of environmental effects, cost and the current levee footprint. Alternative 3 proposes a combination of cutoff walls and berms, along with other measures, to address levee deficiencies.

The DEIS/DEIR identifies Alternative 3, which balances the need to import construction materials, construction emissions, real estate acquisition, land use change, habitat effects, and construction-related disturbance, as the Environmentally Superior Alternative.

Environmental Review

CSLC staff requests that the SBFCA consider the following comments on the subject DEIS/DEIR.

- S5-A
1. **Water Quality and Groundwater Resources: Mercury/Methylmercury.** The DEIS/DEIR should consider the Project's impacts on the movement of mercury and methylmercury in the Feather River. The DEIS/DEIR considers the Project's impacts on turbidity in the Feather River, but does not consider the link between turbidity and mercury transport. Since mercury and methylmercury are associated with small particulates, some Project construction activities may contribute to mercury transport in the Feather River.
- ↓

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S5-A
cont'd

On April 22, 2010, the Central Valley Regional Water Quality Control Board (RWQCB) identified the CSLC as both a State agency that manages open water areas in the Sacramento-San Joaquin Delta Estuary and a nonpoint source discharger of methylmercury (Resolution No. R5-2010-0043), because subsurface lands under the CSLC's jurisdiction are impacted by mercury from legacy mining activities dating back to California's Gold Rush. Pursuant to a RWQCB Total Maximum Daily Load (TMDL), the CSLC, Department of Water Resources, and Central Valley Flood Protection Board are required to reduce methylmercury concentrations in the Delta and open waters under jurisdiction of the CSLC. Consequently, any action taken that may result in continued mercury and methylmercury moving from upstream areas to the Sacramento-San Joaquin Delta Estuary may affect the CSLC's efforts to comply with the RWQCB TMDL.

Although the impact of excessive turbidity (effect WQ-1), was found to be less than significant, the DEIS/DEIR should assess the impacts of mercury on water quality. The assessment should include an estimate of the amount of mercury that may be mobilized by the Project activities, if feasible. If mercury mobilization and transport are expected, the DEIS/DEIR should determine if mercury transport will rise to the level of a significant impact to water quality in the Feather River and downstream.

S5-B

2. **Traffic, Transportation and Navigation: Navigation.** The Feather River is considered by the State to be navigable to above Oroville. In addition, the River for the entire Project area is subject to the public navigation servitude. This means that members of the public have the right to navigate and exercise the incidences of navigation in a lawful manner on waters within the State, whether publicly or privately owned, that are capable of being physically navigated by oar or motor-propelled small craft. Such uses may include, but not be limited to, boating, rafting, sailing, rowing, fishing, fowling, bathing, skiing, and other water-related public uses. The SBFCA must ensure that the Project does not restrict or unduly impede this right of the public. The use of two barges to place material on the waterside slope of the West levee may reduce the navigability of the Feather River. CSLC staff requests that the SBFCA identify and use best management practices to maintain navigability during the Project.

S5-C

3. **Fish and Aquatic Resources: Aquatic Invasive Species.** The DEIS/DEIR should consider the project's impacts on the spread of aquatic invasive species. The DEIS/DEIR states that a barge or tow-boat with a crane may be used to place riprap on the banks of the Feather River. These vessels may act as a vector for aquatic invasive species to become established in the Feather River. One of the major stressors to the Sacramento-San Joaquin River delta is the introduction of non-native species. If the vessels used for construction arrive from the Sacramento River, they may bring established aquatic invasive species from downstream areas. The DEIS/DEIR should provide a range of alternatives for prevention programs for aquatic invasive species, including quarantine, early detection, and early response.

S5-D

4. **Recreation: Public Access.** In section 1.6.3.5, the DEIS/DEIR identifies the demand for increased public access to the Feather River corridor as an area of controversy, especially public access across and upon the levees in the Project area. However

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S5-D
cont'd

the DEIS/DEIR does not address this controversy. The California Constitution adopted in 1879 provides in Article X, section 4:

No individual, partnership, or corporation, claiming or possessing the frontage of tidal land of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to navigable waters of this State shall always be attainable for the people thereof."

Currently, there are virtually no dedicated access points for the public to reach the river between Yuba City and the Sacramento River at Verona. The SBFCA should consider the mandate in the Constitution and develop reasonable access to the river in conjunction with the flood control goals.

S5-E

5. **Cultural Resources:** Title to Cultural Resources. The DEIS/DEIR should mention that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC. CSLC staff requests that the SBFCA consult with Senior Staff Counsel Pam Griggs, at the contact information noted at the end of this letter, should any cultural resources on state lands be discovered during Project construction.

Thank you for the opportunity to comment on the DEIS/DEIR for the Project. As a trustee agency, we request that you consider our comments prior to adoption of the DEIS/DEIR. Please send copies of future Project-related documents, including electronic copies of the Final EIS/EIR, Mitigation Monitoring and Reporting Program (MMRP), Notice of Determination (NOD), CEQA Findings and, if applicable, Statement of Overriding Considerations when they become available, and refer questions concerning environmental review to Holly Wyer, Environmental Scientist, at (916) 574-2399 or via e-mail at Holly.Wyer@slc.ca.gov. For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Senior Staff Counsel Pam Griggs at (916) 574-1854 or via email at Pamela.Griggs@slc.ca.gov. For questions concerning CSLC leasing jurisdiction, please contact Mary Hays, Public Land Manager, at (916) 574-1812, or via email at Mary.Hays@slc.ca.gov.

Sincerely,



Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
Curtis Fossum, LEGAL, CSLC
Mary Hays, LMD, CSLC
Holly Wyer, DEPM, CSLC

Response to Letter S5

S5-A

USACE agrees that mercury should have been addressed in the effect analysis, but a numeric estimation of the potential increase in the mercury concentration downstream is not needed. Because of environmental commitments 2.4.12 (SWPPP) and 2.4.15 (Turbidity Monitoring Plan), it is anticipated that the project will not increase mercury concentration due to suspended sediments and turbidity.

Text was added to the document on page 3.2-16 discussing the relationship between sediments and mercury. Text added: "In addition, suspended sediment has also been known to aid in the transport of absorbed nutrients, organic contaminants and metals such as mercury. The fraction of the metal absorbed is a constant, called the 'partition' coefficient. Some metals are mostly absorbed and some are mostly dissolved. For example, mercury in its dissolved state is called methylmercury and methylmercury would not change in the river from increased transport of suspended sediments, but total mercury could be disturbed and transported downstream from construction related disturbed sediments. Total mercury is an example of a metal that is very absorbed, so the concentration in the suspended sediment (as indicated by turbidity measurements) will be similar to the concentration of turbidity if total mercury is present in the disturbed soils where construction is taking place. Because construction does not involve any in-water construction, it is anticipated that sediments in the river will not be disturbed. In addition, environmental commitment 2.4.12 SWPPP will ensure that best management practices (BMPs) catch any construction related sediments prior to entering the river. Environmental Commitment 2.4.15 (Turbidity Monitoring Plan) will ensure performance of environmental commitment 2.4.12 (SWPPP)."

S5-B

The comment highlights an error in the document. The text regarding use of barges in the river had previously applied to a proposed element for work on the waterside levee slope that is no longer part of the project. Reference to use of barges is a legacy of that former element and no longer is proposed. The referenced text has been deleted from the Final EIS.

S5-C

The comment highlights an error in the document. The text regarding use of barges in the river had previously applied to a proposed element for work on the waterside levee slope that is no longer part of the project. Reference to use of barges is a legacy of that former element and no longer is proposed. The referenced text has been deleted from the Final EIS. The project has taken all feasible measure to prevent invasive plants from colonizing aquatic sites, as described in Section 2.4.7.

S5-D

Generally, it is agreed that the public has the right to use of the river and that the Feather River is navigable by small, recreational craft. It is further acknowledged that there are limitations to access, including locked gates, lack of signage, lack of developed put-in/take-out points for non-motorized craft, and lack of parking and other amenities. It is acknowledged that there are public lands in the river corridor, including those controlled by the State of California, that are not accessible for public use. However, SBFCA does not have responsibility to address these issues as part of its proposed project focused on flood risk-reduction measures to address documented levee deficiencies

according to Federal and state criteria. The fundamental analytical premise under NEPA and CEQA is to assess the change that would occur as a result of the project. SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. From the larger perspective of SBFCA's overall approach toward recreation and public access to the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt a Memorandum of Understanding that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study. In regard to the specific cite from the constitution, it has been added to the Final EIS under Section 3.14.2.1, *Regulatory Setting*, applying language from both the U.S. and California constitutions, but it should be noted that SBFCA has no general or specific mandate to develop access. Moreover, the project is neutral in that it does not change permanent public access.

S5-E

Comment noted. The text of the relevant chapter has been revised on page 3.17-5.

Chapter 3

Other Organizations and Entities

Comments and Responses

This chapter contains the comments received on the Draft EIS/EIR from non-governmental organizations. Each comment letter has been assigned a unique code. Each comment within the letter has also been assigned a unique code, noted in the margin. For example, the code “O1-A” indicates the first distinct comment (indicated by the “A”) in the letter from Pacific Gas and Electric Company, which was the first letter (indicated by the “1”) received from an organization (indicated by the “O”). The chapter presents each comment letter immediately followed by the responses to that letter. Table 3-1 summarizes the commenting party, comment letter signatory, and date of the comment letters.

Table 3-1. Other Organization and Entity Comment Letters

Letter	Agency	Comment Letter Signatory, Date
O1	Pacific Gas and Electric Company	Lonn Maier, Supervisor, February 13, 2013
O2	American Rivers Trust, et al.	John Cain, et al., February 13, 2013
O3	American Rivers Trust, et al.	John Cain, et al., February 15, 2013
O4	American Rivers Trust, et al.	John Cain, et al., March 15, 2013
O5	Natural Resources Defense Council and The Bay Institute	Monty Schmitt and Gary Bobker, March 14, 2013
O6	Patrick Porgans & Associates	Patrick Porgans, February 26, 2013

Letter O1—Pacific Gas and Electric Company, Lonn Maier, Supervisor, February 13, 2013

Letter O1



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February 12, 2013

Mr. Jeff Koschak
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814-2922

**Re: Pacific Gas and Electric Company Comments on the Sutter Butte Flood Control Agency Feather River
West Levee Draft Environmental Impact Report/Environmental Impact Statement**

Dear Mr. Koschak:

Thank you for the opportunity to comment on the Feather River West Levee (FRWL) draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS). I am writing to provide you with comments, clarification, and additional information concerning the proposed Pacific Gas & Electric (PG&E) work described in the draft EIR/EIS.

O1-A As indicated in the EIR/EIS, approval of this project will result in the need for PG&E to relocate electric and gas facilities. To assist the Sutter Butte Flood Control Agency (SBFCA) in complying with the California Environmental Quality Act (CEQA) and the U.S. Army Corps of Engineers (Corps) in complying with the National Environmental Protection Act (NEPA)—both of which require the lead agency to fully describe all proposed activities associated with a project—PG&E is providing additional details concerning the natural gas and electrical facilities and related construction activities in the FRWL project footprint. PG&E requests that the information provided be included in the final EIR/EIS and added to the project's administrative record.

O1-B A primary concern PG&E has in reviewing the draft EIR/EIS is that the project area does not appear to include all of the locations where PG&E facilities will need to be relocated to and, consequently, where construction activities and potential impacts may occur. PG&E requests that the information provided below be included in the EIR/EIS so that all of PG&E's relocation and construction activities will be fully described in the final EIR/EIS and included in the SBFCA environmental permits to support the relocation of PG&E facilities. PG&E further requests that existing and relocated PG&E facilities are included in the project regulatory and environmental setting analyzed for each resource area in the final EIR/EIS, and that all findings be documented in the effects discussion for each applicable resource area.

In addition to these concerns, PG&E has provided specific comments to the draft EIR/EIS below.

Comments Specific to the Draft EIR/EIS

O1-C 1. Table 1-5. Key Infrastructure and Facilities in SBFCA's Planning Area – Page 1-18
a. Under the heading Energy Companies, please add PG&E.

Jeff Koschak, U.S. Army Corps of Engineers
February 12, 2013
Page 2

- | | |
|------|---|
| O1-D | <p>2. Section 2.3.1 Project Footprint and Land Acquisition – Page 2-17 and Appendix G</p> <p>a. The draft EIR/EIS states that “SBFCA with DWR would attempt to acquire land rights 30 feet on the landside ...” PG&E is presently being asked to relocate some facilities 100 feet <i>or more</i> from the toe of the levee, which would require additional land rights. In addition, because not all PG&E locations have been identified as of the date of this comment letter, the need for broader land rights should be assumed. This comment also pertains to Appendix G and the description of the facilities to be relocated.</p> |
| O1-E | <p>3. Section 2.3.2 and Table 2-5 Relocations, Demolition, and Removals - Page 2-18 -2-20</p> <p>a. Please include Electrical Transmission and Distribution facilities in the list of description of activities on page 2-18.</p> |
| O1-F | <p>b. Line 7 of Table 2-5 identifies a PG&E 12-inch Gas Line as a pipe crossing replacement, but no other PG&E facilities are identified for relocation, demolition or removal in this table. In Phase C alone, PG&E has identified over 125 poles and multiple gas lines that need to be relocated. Table 2-5 should be either include all PG&E facilities or it should be deleted; the text provided at the bottom of the table on page 2-20, if revised as requested below, accurately discusses these activities in a more general fashion.</p> |
| O1-G | <p>4. Section 2.3.2 Relocations, Demolition, and Removals - Page 2-20</p> <p>a. Suggested revisions to text following Table 2-5.</p> <p>“Additionally, prior to and/or concurrent with levee rehabilitation construction, PG&E will relocate existing electric transmission and distribution lines and gas transmission and distribution pipelines as requested by SBFCA to facilitate levee rehabilitation construction. Work to be performed by PG&E will include (but not necessarily be limited to) removal of existing and installation of new utility poles and anchors, transfer of existing electric transmission and distribution lines from existing utility poles to new utility poles, removal of existing and installation of new gas transmission and distribution pipelines, and connection of new gas distribution pipelines to existing facilities. Temporary and/or permanent easements required for the construction and maintenance of these facilities are being acquired by SBFCA. The locations of the facilities to be relocated by PG&E, as identified by SBFCA, are shown on Plate 2-3 and identified in Appendix G.”</p> |
| O1-H | <p>b. PG&E requests that the final EIR/EIS provide a more detailed description of the proposed relocation activities of PG&E facilities by including the attached PG&E Project Description for these efforts (See Attachment A).</p> |
| O1-I | <p>5. Section 2.4.12 Storm Water Pollution Prevention Plan – Page 2-35</p> <p>a. Please include the following BMP:</p> <p>“Offsite Tracking. Install rumble plates and crushed rock at project site entrance and exit locations to control offsite tracking of mud from construction vehicle tires.”</p> |
| O1-J | <p>6. Section 3.8 Vegetation and Wetlands – Page 3.8-25</p> <p>a. Will the requirement to conduct protocol surveys in suitable habitat for special-status plant species require PG&E to wait until a specific bloom period for plant (and associated survey) has</p> |

<p>Jeff Koschak, U.S. Army Corps of Engineers February 12, 2013 Page 3</p>	
O1-J cont'd	<p>occurred before conducting work in the applicable areas? If so, the impact to PG&E construction schedules will need to be considered in the broader planning efforts in support of construction timing. If not, this fact should be clarified or the requirement deleted.</p>
O1-K	<p>7. Section 3.8 Vegetation and Wetlands – Page 3.3-80</p> <p>a. The last paragraph of this chapter discusses impacts to oak woodlands. SB 1334 is not discussed in the Compliance Chapter of the draft EIR/EIS. SB 1334 requires that CEQA be applied to a proposed project should there be a possibility for significant impacts on oak woodlands. PG&E requests that, if oak woodlands occur within the project site, an assessment or discussion on this requirement be included in the document.</p>
O1-L	<p>8. Section 3.9 Wildlife</p> <p>a. PG&E requests that the following language be included in the draft EIR/EIS:</p> <p>“Once the precise PG&E facility relocation sites are known, all areas of proposed ground disturbance will be screened to determine if they fall within areas previously surveyed for the presence of regulated biological resources (i.e. special-status species, protected habitat, and waters of the U.S., etc.) in support of the EIR/EIS. In the event areas proposed for ground disturbance fall outside of areas previously surveyed for the presence of regulated biological resources, a site-specific review will be required to ensure that potential impacts to regulated biological resources are avoided to the extent possible or appropriate measures are taken if avoidance is not possible. This review will consist of one of the following: a desk-top biological constraints report and/or a focused field study and associated report of findings, which determines the potential for occurrence of regulated biological resources associated with these areas. Additionally, reports will define site specific avoidance and minimization measures to avoid or reduce potential impacts to regulated biological resources as applicable. The precise method of review for each facility relocation will be decided in consultation with a PG&E Biologist and/or EFS Specialist.”</p>
O1-M	<p>b. Mitigation Measure WILD MM-4: Avoid and Minimize Effects on Giant Garter Snake: This measure reduces the project work window to May-October for much, if not all of the project site. Utility relocation involving, most commonly, the removal and replacement of wood poles at discrete locations, should be allowed outside of this work window. With a pre-construction survey for GGS and guidance and/or monitoring by a qualified biologist, there is minimal risk to the GGS. Table 3.8.1 states there is a total of 59.2 acres of open water in the project area which encompasses roughly 3,000 acres. No riceland habitat is mapped in the project area. Although there may be hydrologic connections to GGS occurrences documented in the CNDDDB, it has not been determined if agricultural ditches within the project area have any primary constituent elements to sustain the GGS. For this reason, a general GGS minimization measure dictating the construction work window is not appropriate here. Moreover, if the blanket restriction is retained, PG&E’s schedule will be impacted and project delays, possibly substantial delays, may result.</p>

<p>Jeff Koschak, U.S. Army Corps of Engineers February 12, 2013 Page 4</p>	
O1-N	<p>9. Table 3.9-6 Timing of Mitigation Requirements – Page 3.9-42</p> <p>a. This measure to mitigate for impacts to nesting birds requires that vegetation trimming/removal will be conducted September through January 1. PG&E construction activities will require vegetation trimming and/or removal outside of this work window.</p>
O1-O	<p>10. Mitigation Measure WILD MM-5: Compensate for Loss of Suitable Giant Garter Snake Habitat – Page 3-33</p> <p>a. This measure states that SBFCA will acquire a fee title or conservation easement for indirect and direct effects to GGS. Alternatively SBFCA will acquire mitigation bank credits or in-lieu fee. If mitigation will be required prior to initiating work, SBFCA needs to be aware that the requirement could delay PG&E's construction schedule. It is PG&E's experience that obtaining fee title on a mitigation site may take an extended period of time.</p>
O1-P	<p>11. Section 3.15.2.1 Regulatory Setting – California Public Utilities Commission – Page 3.15-1</p> <p>a. Suggested revisions to the following text:</p> <p>"The CPUC regulates privately owned telecommunications, electric, natural gas, water, railroad, rail transit, and passenger transportation companies in the state. The CPUC is responsible for ensuring that California utility customers have safe, reliable utility service at reasonable rates, protecting utility customers from fraud, and promoting the health of California's economy. The CPUC establishes service standards and safety rules and authorizes utility rate changes, and enforces CEQA compliance for utility construction. The CPUC also regulates the relocation of electrical and gas transmission and distribution lines by public utilities under its jurisdiction, such as those owned by PG&E. The CPUC's General Order (GO) 131-D requires PG&E to obtain a discretionary permit before relocating electrical facilities with voltages greater than 50 kV. PG&E may be able to follow a simpler notice process rather than obtaining a formal permit if (1) the proposed project has undergone CEQA review as part of a larger project and (2) the final CEQA document finds no significant unavoidable environmental impacts as a result of PG&E's construction-related activities. Thus, for the electrical relocation work required for the FRWL project, PG&E may be able to rely on the final EIR/EIS to expedite its permitting requirements under GO 131-D. If a project qualifies for the exemption, GO 131-D requires only a Notice of Construction with an opportunity for public review and comment."</p>
O1-Q	<p>12. Section 3.15.2.1 Utility and Service System Encroachments – Page 3.15-6</p> <p>a. First paragraph, last sentence please replace "overhead utilities" with "overhead and underground electric and gas utilities".</p>
O1-R	<p>13. Section 3.15.2.2 Electric Power Transmission and Natural Gas – Page 3.15-4</p> <p>a. Please revise the title of this section to read "Electric and Natural Gas Transmission and Distribution".</p>
O1-S	<p>b. PG&E suggest the following revisions: "Electricity purchased from PG&E by local customers in Sutter and Butte counties is generated and delivered to the counties by a statewide network of power plants and electrical transmission and distribution lines. Natural gas service is provided by PG&E to urbanized areas of Yuba City. In parts of Sutter and Butte counties not served by PG&E's gas transmission and distribution network, including many of the counties' rural areas,</p>

<p>Jeff Koschak, U.S. Army Corps of Engineers February 12, 2013 Page 5</p>	
O1-S cont'd	residents and businesses make use of liquid propane gas (LPG) or other tanked or bottled gas for heating and cooking.
O1-T	<p>14. Effect UTL-2: Damage of Public Utility Infrastructure and Disruption of Service – Page 3.15-10</p> <p>a. Please correct the second paragraph of this measure, which states that the operation and maintenance area is 20 feet from the landside levee or berm toe. In some instances, PG&E facilities will be located over 100 feet from the levee or berm toe.</p>
O1-U	<p>15. Section 3.16.2.3 Hazardous Materials – Page 3.16-4</p> <p>a. Please include the removal of PG&E facilities in the discussion of potential sources of hazardous materials. PG&E suggests the following language be included in the draft EIR/EIS:</p> <p>"The project will involve the removal and replacement of existing wood distribution and power poles and related equipment. Oil and treated wood project storage onsite requires secondary containment, managed storage, and labeling with manifested disposal/recycling processing. Insulators will be stored separately and recovered. The existing treated wood poles will be collected in project-specific containers once removed from the site, and will be disposed of at a licensed Class 1 or a composite-lined portion of a solid waste landfill."</p>
O1-V	<p>16. Section 3.17 Cultural Resources</p> <p>a. PG&E requests that the following language be included in the draft EIR/EIS:</p> <p>"Once the precise locations of PG&E's facilities are known, all areas of proposed ground disturbance will be screened to determine if they fall within the areas previously surveyed for the presence of cultural resources in support of the EIR/EIS. In the event that there are areas proposed for ground disturbance that fall outside of the EIR/EIS cultural survey area, a site-specific environmental review will be required to ensure that impacts to cultural resources are avoided. The review should consist of one or more of the following: literature review, records search and pedestrian survey. The precise method of review of each facility relocation will be decided in consultation with a PG&E Cultural Resources Specialist."</p>
<p><u>Summary</u></p>	
O1-W	<p>PG&E wishes to coordinate with SBFCA to ensure that PG&E's facilities, the associated replacement and/or relocation activities, and potential construction-related impacts are adequately described in both the description of the project setting and the project area described in the draft EIR/EIS. PG&E remains committed to working with SBFCA through the life of this project with the aim of providing a seamless process for the relocation of our facilities in advance of the levee repair activities SBFCA will be conducting.</p>
O1-X	<p>PG&E is available to review and comment on specific development details for purposes of protecting its vital utility facilities and easements. If you have any questions regarding the above information or have additional questions please do not hesitate to contact me at (916) 923-7020 or at LCMK@pge.com.</p>

Jeff Koschak, U.S. Army Corps of Engineers
February 12, 2013
Page 6

Sincerely,



Lonn Maier, Supervisor
Electric Transmission Environmental Planning and Permitting

Attachment

Cc: Michael Bessette, Sutter Butte Flood Control Agency
Chris Elliott, ICF International
Chris Ellis, Principal, PG&E
Michael Inamine, Sutter Butte Flood Control Agency
Barry O'Regan, Peterson, Brustad, Inc.
Danielle Wilson, Senior Land Planner, PG&E

**Letter O1
Attachment 1
O1-Y**

**Sutter Butte Flood Control Agency
Feather River West Levee Project
Pacific Gas & Electric Project Description**
Draft: 02/12/2013

Sutter Butte Flood Control Agency (SBFCA) has requested that Pacific Gas and Electric (PG&E) remove and relocate facilities located within the 30 foot demarcation point of the levee toe located within the footprint of the SBFCA's Feather River West Levee Project (FRWL). PG&E facilities include electrical transmission and distribution poles, and natural gas transmission and distribution pipes, as well as supporting equipment such as guy wires, anchors, conductors, pipeline markers, etc.

Construction Timing: Typically, PG&E's utility relocations will need to occur in advance of SBFCA's construction activities at any given location. Construction sequencing for SBFCA's work will be dynamic throughout SBFCA's project planning and design. Factors determining the construction schedule include:

- Further engineering to clarify and determine efficacy of site-specific measures;
- Availability of funding for FRWL;
- Easement and right-of-way acquisition (by SBFCA);
- Availability of borrow material for the levee improvement activities; and/or
- Environmental clearances based on wildlife presence, lifecycle activity, and location of habitats.

PG&E's construction schedule will be further influenced by utility operation and maintenance constraints, particularly for relocation activities that require taking existing facilities temporarily out of service. Many electric facilities cannot be taken out of service during summer peak demand, and gas facilities may also face similar seasonal constraints.

It is anticipated that SBFCA's construction would be divided into four separate construction phases or contracts - i.e. A, B, C, and D. Although subject to change, the proposed schedule is as follows:

Contract A – 2014-2015
Contract B – 2014-2015
Contract C – 2013-2014
Contract D – 2014-2015

The attached Figure A is a draft table and map prepared by SBFCA identifying the PG&E facilities in conflict with the proposed FRWL Project. PG&E is working with SBFCA to identify solutions for resolving these conflicts. The placement of gas and electric facilities in or in proximity to levees is presently permitted by existing federal and state regulations. As necessary, geotechnical mitigation measures can be incorporated into construction design to ensure that utility facilities effectively co-exist with flood protection facilities. Relocation of gas and electric facilities away from levees should be considered the exception, not the rule.

PG&E is assuming that all of the PG&E activities will be covered under the final Environmental Impact Report/Environmental Impact Statement and the environmental permits secured for the FRWL Project. This will both avoid unnecessary delays associated with separate environmental review and permitting for any utility relocation and ensure that the lead agencies comply with CEQA and NEPA on all aspects of the FRWL Project. PG&E is aware that not all environmental permits will be secured for the entire project prior to the initiation of construction. Some permits may be secured based on the timing of the proposed construction dates of each contract/phase.

Electrical Transmission and Distribution: PG&E proposes to install and remove new electrical transmission and distribution poles. Electrical transmission poles will be approximately 100 feet long and installed in the ground approximately 15 feet deep. Electrical distribution wood poles are approximately 95 feet long, installed in the ground approximately 10 feet deep.

Electrical transmission and distribution pole removal will typically be conducted by a line crew, which typically access each pole site with a line truck and trailer or a boom truck except in those instances when the pole is located on the levee crown; a crane may be used in those instances. Existing poles are typically loosened from the ground with a hydraulic jack, removed from their holes using a crane, line truck or boom truck, and transported from the site on a trailer or boom truck. A backhoe and dump truck typically backfill the hole with native soil from project construction activities (e.g., pole excavations).

On average, removal of vegetation up to 50 feet from the toe of the levee will need to occur to accommodate pole installation activities; this figure may be greater in instances where PG&E installation activities are located further than 30 feet from the toe of the levee.

Electrical pole installation techniques typically include staking the pole location, flagging the work area, implementing BMPs, and excavating with either a hole auger to drill and excavate an approximately 3 feet by 3 feet by no more than 10 feet deep site or a backhoe to trench an approximately 5 feet by 5 feet by no more than 8 feet deep site. A crane may be used to remove and install the electrical transmission poles located on the levee crown. Additional installation techniques typically include installing the pole, backfilling, transferring wire and equipment, removing the old conductor, stringing the new conductor, and properly disposing of the facilities and equipment removed and replaced. The project will involve the removal and replacement of existing wood distribution and power poles and related equipment. Oil and treated wood project storage onsite typically requires site secondary containment, managed storage, and labeling with manifested disposal/recycling processing. Insulators are typically stored separately and recovered. PG&E typically collects the existing treated wood poles in project-specific containers once removed from the site, and disposes of them at a licensed Class 1 or a composite-lined portion of a solid waste landfill.

In some instances depending on existing constraints between electrical transmission and electrical distribution lines, underground conduit installation may be required. Typical installation techniques for these types of activities include digging a trench between approximately 20 feet wide and 40 feet wide by 4 feet deep by up to 150 feet long. The trench would typically be aligned in the middle of the new utility corridor.

Natural Gas Transmission and Distribution: PG&E proposes to install gas transmission and distribution steel pipe approximately 16 inches in diameter, ranging in approximately 300 to 600 feet long. The project also typically includes the removal and disposal of existing pipe of varying diameters and length. Other typical types of gas transmission and distribution equipment that may be installed include ETS/CTS meter stations for future pipe monitoring purposes, and pipeline markers (paddle and/or carsonite markers) at angle points and as levee crossing locations.

Gas pipe installation techniques typically include digging a trench approximately 2 feet wide by up to approximately 6 feet deep and up to approximately 600 feet long. PG&E typically requires an approximately 60 foot right of way area (ROW) for gas distribution and transmission projects (approximately 25 feet width of temporary disturbance and approximately 35 feet of permanent disturbance). Clearing and grading operations typically involve preparation of the ROW, including vegetation removal, debris disposal, and land leveling. Installation sites are typically backfilled using sand to create an approximately sized 6 inch insulation zone around the pipe and then typically covered by native soil from the project. In some instances, a crane may be required to place pipe at crossing sites located at the crowns of the levees. Dump trucks are typically utilized to

transport sand and soil materials. Spoil piles may be temporarily placed onsite while the installation activities are occurring. Replacing of vegetation within the area of the permanent easement typically has restrictions of trees within 10 feet of the pipeline. The example list of equipment below provides the typical activities associated with each piece of equipment that may be utilized for both electrical and natural gas construction activities.

Hydrostatic testing will typically be performed to test the strength of the new pipeline. The typical PG&E approach to this type of test involves the filling of the pipeline with water pressurized to 1.5 times the operating pressure and held for up to approximately 8 hours. Following testing, the pipe is typically flushed to remove dirt and other debris. Test water intake and discharge will typically be performed in accordance with all regulations and permit requirements. Test water is typically then discharged at a rate or in a manner that minimizes erosion, using an appropriate energy dissipater.

Work Crews: Typical electrical transmission and distribution project work schedules are comprised of an average 9-hour day, at an average of 6 days per week per crew. Typical electrical transmission and distribution installation crews consist of 3 to 5 crew members. For purposes of determining the length of construction for each phase of the project, PG&E typically estimates electrical facility installation activities require approximately 1 day for installation of 2 poles on average.

Typical removal and installation of gas transmission and distribution facilities are comprised of 9-hour days at an average of 6 days per week per crew. Typical gas transmission and distribution installation crews consist of 3 to 5 crew members. For purposes of determining the length of construction for each phase of the project, PG&E estimates gas installation activities will require approximately 2 days for installation of approximately 100 feet of pipe on average. PG&E will utilize crew trucks whenever feasible to minimize the number of vehicles accessing each site to reduce potential vehicle-related impacts.

Work Areas, Access Routes and Vegetation Management: Typical PG&E work areas are approximately 125 feet by 125 feet in diameter and typically located in close proximity to installation activity locations. On average, PG&E will require up to 10 work areas per project phase. PG&E commits to utilizing the work areas identified by SBFCA whenever possible. Typically, PG&E project access is achieved through existing public and private roads.

Removal of vegetation to utilize access roads by PG&E equipment may be required. Replacement of vegetation within the area of the permanent easement associated with gas transmission and distribution facilities typically restricts trees from being located within 10 feet of the pipeline. California Public Utilities Commission General Order 95 requires that vegetation maintenance activities be conducted to ensure significant space exists between the electrical line and vegetation for purposes of providing a safe clearance.

Easement Requirements: PG&E currently owns easements along the entire project route. The proposed realignments will traverse agricultural fields and rural homesteads, as well as span the Feather River. PG&E assumes that relocation of the facilities will require acquisition of easements. PG&E is in the process of reviewing the current easements and negotiating contracts and other property rights with SBFCA for permanent or temporary use.

Equipment: The list below represents the typical types of equipment PG&E anticipates it will need to conduct the electrical and gas transmission and distribution work.

- Aerial lifts – Remove old conductor and install new
- Auger – Excavate holes
- Backhoe – Excavate foundations, spoil removal, backfill
- Boom truck – Erect structures

- Concrete mixer truck – Haul concrete
- Crane – Erect structures
- Crew-cab truck/pick-ups – Transport personnel, tools and materials
- Dump truck (up to 10 wheels) – Haul material
- Equipment/tool vans – Tool storage and transportation
- Excavators - excavate trench and tie-in holes
- Grooming/grading equipment – Road construction and crane pads:
 - Dozer – Move/compact soils
 - Grader – Properly pitch road for run-off
 - Rock transport – Deliver road base for access roads, staging areas, and pull sites
 - Roller – Compact road and surfaces
 - Water truck – Deliver water for hydro tests and fire control, compact soils, and control dust
 - Low drill – Erect structures
- Helicopters (light and heavy duty) – Erect poles, install sock line, haul materials, equipment and people
- Hydraulic jack – Remove poles
- Line truck and trailer – Haul conductor, poles, equipment, materials, and crews
- Materials storage units – Store material/tools
- Mobile offices – Supervision and clerical office space
- Puller – Install conductor
- Reel dolly – Install and move conductor
- Semi-trucks - deliver materials to staging area
- Tensioner – Install conductor
- Vibratory compaction equipment - compact trench line
- Welding trucks - weld sections of pipe together

PRELIMINARY
Letter O1
Attachment 2
O1-Z

SUTTER BUTTE FLOOD CONTROL AGENCY
FEATHER RIVER WEST LEVEE PROJECT
PG&E ENCROACHMENTS COORDINATION LIST

PROJECT B (STATION 510+37 TO 845+00)
LEVEE CONSTRUCTION TO BEGIN IN 2014

PROJECT NUMBER	STATION	DESCRIPTION	WORK REQUIRED
B-1	592+50	Overhead power line crossing the levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
B-2	622+79	Service pole for irrigation well located at levee toe.	Service pole shall be removed.
B-3	638+20	Service pole for irrigation well located near levee toe.	Service pole shall be removed.
B-4	649+11	Utility pole located at landside levee toe. Overhead power line crossing the levee.	Utility pole shall be relocated 30' from landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
B-5	655+50	Service pole for irrigation well located near levee toe.	Service pole shall be removed.
B-6	655+65 to 664+00	Utility poles running parallel to levee near landside toe.	Utility poles shall be relocated 30' from levee toe.
B-7	669+20	Service pole for irrigation well located at levee toe.	Service pole shall be removed.
B-8	689+90 to 689+40	Utility poles located at the landside levee toe. Overhead power line crossing the levee.	Utility poles shall be relocated 30' from landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required. Utility poles on waterside of levee are not required to be relocated by the CVFPB.
B-9	749+75 to 762+00	Utility poles running parallel to levee at landside toe.	Utility poles shall be relocated a minimum of 30' from levee toe. The Garden Highway is located at the levee toe. The utility poles shall be relocated to the west side of the Garden Highway.
B-10	750+10	Overhead power line crossing the levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
B-11	750+50	Transmission lines crossing the levee.	For information only. Transmission lines will not be disturbed during construction.

NOTE: The existing utilities shown are based on topographic surveys and review of existing encroachment permits provided for the FRWL Project. Additional utilities may exist that have not been identified by these sources. PG&E shall review the appropriate electrical and gas maps to determine if additional utilities are located within the project area.

PRELIMINARY

**SUTTER BUTTE FLOOD CONTROL AGENCY
FEATHER RIVER WEST LEVEE PROJECT
PG&E ENCROACHMENTS COORDINATION LIST**

**PROJECT C1 (STATION 1080+00 TO 1623+86)
LEVEE CONSTRUCTION TO BEGIN IN 2013**

PROJECT NUMBER	STATION	DESCRIPTION	WORK REQUIRED
C1-1	1080+00	8-inch gas main crossing levee at skewed angle.	Gas main shall be removed or relocated to allow for construction of the levee improvements. The gas mains shall be reconstructed in accordance with the DWR Title 23 requirements. Reconstructed gas main shall cross perpendicularly to the levee.
C1-2	1097+00	Utility pole on waterside of levee in conflict with proposed 48" raw water pipe. Overhead power line crossing levee	Utility pole shall be relocated south to provide area for construction of 48" raw water pipe. Utility pole shall be located a minimum of 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-3	1107+82	Utility pole located in waterside slope near levee crown. Overhead power line crossing levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-4	1126+00 to 1131+30	Utility poles running parallel to levee near landside toe.	Utility poles shall be relocated a minimum of 30' from the levee toe. Live Oak Blvd is in close proximity to the levee. It may be necessary to relocate the utility poles to the west side of Live Oak Blvd.
C1-5	1135+40	16-inch gas main crossing the levee.	Gas main shall be removed or relocated to allow for construction of the levee improvements. The gas main shall be reconstructed in accordance with the DWR Title 23 requirements.
C1-6	1139+25	Utility pole with guy wire in landside levee slope near levee crown. Overhead power line crossing levee.	Utility pole shall be relocated 30' from landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-7	1152+40	Twin 110kV transmission tower at levee toe. Transmission lines crossing the levee.	For information only. Transmission tower to remain in place. Utility poles shall be relocated 30' from landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-8	1170+05	Utility pole located in landside slope near levee crown. Angle point in the overhead power line. Overhead power line crosses the levee and continues north parallel to the landside toe.	Utility pole shall be relocated 30' from landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-9	1174+35	Utility pole located near landside levee toe.	Utility pole shall be relocated 30' from landside levee toe.
C1-10	1179+05 to 1201+25	Utility poles running parallel to levee at landside toe.	Utility poles shall be relocated 30' from landside levee toe.

C1-11	1195+15	Overhead power line crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-12	1222+15	Utility pole located at landside levee toe. Angle point in overhead power line. Overhead power line turns and continues north crossing at a skewed angle to the levee.	Utility pole shall be relocated 30' from landside levee toe.
C1-13	1223+80 to 1227+60	Utility poles running parallel to levee at waterside toe.	Utility poles shall be relocated 1' outside of the waterside construction limit line.
C1-14	1225+90	Utility pole in landside slope at levee crown. Overhead power line crossing levee at skewed angle.	Utility pole shall be relocated 30' from landside levee toe.
C1-15	1266+80	Utility pole in landside slope near levee toe. Overhead power line crossing levee.	Utility pole shall be relocated 30' from landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-16	1293+66	Utility pole located at waterside levee toe. Overhead power line crossing levee.	Utility pole shall be located 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-17	1307+80 to 1339+00	Utility poles running parallel to levee at waterside toe.	Utility poles shall be relocated 1' outside of the waterside construction limit line.
C1-18	1327+00	Overhead power line crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-19	1347+40	Overhead power line crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-20	1391+96	Overhead power line crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-21	1399+28	Overhead power line crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-22	1430+00	Substation, transformers, and utility poles located at the waterside slope. Overhead power lines crossing levee.	Substation, transformers, and utility poles shall be protected in place by the levee contractor. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-23	1460+00 to 1471+00	Underground utility line place within crown of levee per PG&E utility maps.	Underground utility shall be relocated a minimum of 30' from the landside levee toe. The top of the Sutter Butte Main Canal is located approximately 50' from the landside levee toe. Two residential structures are located near the landside levee toe, providing approximately 25' between the structure and top of the Sutter Butte Main Canal.
C1-24	1520+25	Utility pole located in landside slope near toe of levee. Overhead power line crossing levee.	Utility pole shall be relocated 30' from landside levee toe. Existing structure is located at the landside levee toe approximately 20' to 30' from the existing overhead power line alignment. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C1-25	1536+00	Utility pole located at landside levee toe. Overhead power line crossing levee.	Utility pole shall be relocated 30' from landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.

Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
Utility poles shall be located 1' outside of the waterside construction limit line. Residential structures are located near poles. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.

Overhead power line crossing levee.
Two utility poles located at waterside levee toe. Overhead power line crossing levee.

C1-26 1556+58
C1-27 1611+40

**PROJECT C2 (STATION 845+00 TO 1080+00)
LEVEE CONSTRUCTION TO BEGIN IN 2013**

PROJECT NUMBER	STATION	DESCRIPTION	WORK REQUIRED
C2-1	881+50	Utility pole at landside toe of levee next to LD1 relief well pump station.	No work required. Utility pole to remain in place.
C2-2	894+22	12 kV underground cable crossing through levee.	The 12kV underground cable shall be removed to allow for construction of the levee improvements. The 12kV cable shall be replaced after levee construction in accordance with the DWR Title 23 requirements.
C2-3	894+22	Utility pole near landside levee toe.	No work required. Utility pole to remain in place.
C2-4	904+50 to 912+94	Gas main running parallel to the levee within 20' of the landside toe.	Gas main to remain in place. Gas main to be analyzed to determine if construction loads will damage pipe.
C2-5	912+94	Gas transmission station located approximately 40' from landside levee toe.	No work required. Gas transmission station to remain in place.
C2-6	913+20	Two 12-inch gas lines crossing levee.	Contractor to protect station in place. Gas mains shall be removed or relocated to allow for construction of the levee improvements. The gas mains shall be reconstructed in accordance with the DWR Title 23 requirements.
C2-7	930+00 to 952+00	Gas main running parallel to the levee at the landside toe.	Gas main to remain in place. Gas main to be analyzed to determine if construction loads will damage pipe.
C2-8	952+10	12 kV underground cable crossing through levee.	No work required. The 12 kV cable shall be protected in place by the contractor.
C2-9	959+00 to 972+00	Utility poles running parallel to levee near landside toe.	Utility poles shall be relocated a minimum of 30' from the levee toe. Second Street is adjacent to the levee toe. The utility poles shall be relocated to the west side of Second Street.
C2-10	971+70	Utility pole in waterside levee slope. Overhead power line crossing levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Overhead power line crossing can remain in place.
C2-11	1003+72	Utility pole in landside levee slope near crown of levee. A streetlight is attached to the utility pole.	No work required. Utility pole to remain in place.
C2-12	1006+07	Utility pole in waterside levee slope near crown of levee. A streetlight is attached to the utility pole.	No work required. Utility pole to remain in place.

C2-13	1008+93	Utility pole and anchor within landside levee slope near crown of levee. Overhead power line crossing the levee.	No work required. Utility pole to remain in place. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C2-14	1008+00 To 1025+00	Utility poles and overhead power line running parallel to LS levee toe.	Utility poles shall be relocated a minimum of 1' outside of the construction limit line. A residential structure is in close proximity to the levee at Station 1012+00.
C2-15	1008+75	Utility pole located in waterside levee slope. Overhead power lines crossing levee.	Utility pole shall be located a minimum of 1' outside of the waterside construction limit line. Special consideration of this location is required due to the close proximity of the levee to the river channel.
C2-16	1019+80 to 1022+10	Utility poles in waterside slope near levee crown. Streetlights are attached to the utility poles.	No work required. Utility poles to remain in place.
C2-17	1025+00	Utility pole with guy wires in waterside levee slope. Overhead power line crossing levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
C2-18	1028+09	Utility pole in waterside slope near levee crown. Streetlight is attached to the utility pole.	No work required. Utility pole to remain in place.
C2-19	1042+50 to 1080+00	Gas main running parallel to the levee at the landside toe.	Gas main to remain in place. Gas main to be analyzed to determine if construction loads will damage pipe.
C2-20	1073+41	12-inch gas main crossing the levee.	The gas main shall be reconstructed to meet current DWR Title 23 requirements.

NOTE: The existing utilities shown are based on topographic surveys and review of existing encroachment permits provided for the FRWL Project. Additional utilities may exist that have not been identified by these sources. PG&E shall review the appropriate electrical and gas maps to determine if additional utilities are located within the project area.

PRELIMINARY

**SUTTER BUTTE FLOOD CONTROL AGENCY
FEATHER RIVER WEST LEVEE PROJECT
ENCROACHMENTS COORDINATION LIST - PROJECT D (STATION 1623+86 TO 2368+00)**

**PROJECT D1 (STATION 2290+00 TO 2368+00)
LEVEE CONSTRUCTION TO BEGIN IN 2014**

PROJECT NUMBER	STATION	DESCRIPTION	WORK REQUIRED
D1-1	2335+70 to 2351+70	Utility poles running parallel to levee within landside slope.	Utility poles shall be relocated 30' from the toe of proposed seepage berm.
D1-2	2353+90	Utility pole located at the waterside levee toe.	Utility pole shall be relocated 1' outside of the waterside construction limit line.
D1-3	2360+15 to 2367+90	Utility poles running parallel to levee at the waterside levee toe or within the levee prism.	Utility poles shall be relocated 1' outside of the waterside construction limit line.

**PROJECT D2 (STATION 1813+33 TO 2290+00)
LEVEE CONSTRUCTION TO BEGIN IN 2014**

PROJECT NUMBER	STATION	DESCRIPTION	WORK REQUIRED
D2-1	1887+10	Overhead power line crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-2	1888+60 to 1895+10	Utility poles running parallel to the levee at the landside toe.	Utility poles shall be relocated 30' from the landside levee toe. Overhead power lines continue parallel to the levee from Station 1895+10 to 1906+60. Poles shall remain in place between Station 1898+20 to 1906+60. A structure is located at Station 1897+00, between the pole to be relocated at Station 1895+10 and the pole to remain at Station 1898+20.
D2-3	1903+96	Guy wire crossing over levee.	Guy wire shall be removed during levee construction.
D2-4	1906+60	Overhead power lines crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-5	1947+33	Utility pole at waterside levee toe. Underground electrical crossing through levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. The underground electrical shall be removed and disposed. Unknown if this service is still required.
D2-6	1957+00	Utility pole located at the waterside levee toe. Overhead power line crossing the levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Overhead power line shall be lowered during levee

D2-7	1957+10	Utility pole located in the levee crown.	Utility pole shall be relocated 30' from the landside levee toe. Facilities served by utility pole are being removed.
D2-8	2006+10 to 2006+50	Utility poles located at landside levee toe.	Utility poles shall be relocated 30' from the landside levee toe. Utility poles serve an irrigation well that will be relocated.
D2-9	2037+15	Overhead power line crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-10	2092+20	Overhead power line crossing levee.	Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-11	2138+00	Utility pole located at the landside levee toe. Overhead power line crosses levee to utility pole located at Station 2142+00.	Utility pole shall be relocated 30' from the landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-12	2142+00	Utility pole located at waterside levee toe.	Utility pole shall be relocated 1' outside of the waterside construction limit line.
D2-13	2178+20 to 2185+50	Utility pole at Station 2178+20 located at the waterside levee toe. Overhead power line crosses levee to utility poles located at the landside levee toe. Power lines continue parallel to the levee.	Utility poles on the waterside of the levee shall be relocated 1' outside of the waterside construction limit line. Utility poles on the landside of the levee shall be relocated 30' from the landside levee toe. Existing structures located at the landside levee toe starting at Station 2184+50 conflict with utility pole relocations on the landside of the levee.
D2-14	2216+70	Utility pole located in the waterside slope at the levee crown. Overhead power line crossing the levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-15	2249+00	Utility pole located at the landside levee toe. Overhead power line crossing the levee.	Utility pole shall be relocated 30' from the landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-16	2264+70 to 2268+45	Utility poles running parallel to the levee at the landside toe. Overhead power line crosses levee at Station 2265+50 to utility pole located on waterside of the levee.	Utility poles on landside of the levee shall be relocated 30' from the landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-17	2282+80	Utility pole located near the waterside levee toe adjacent to a structure. Overhead power line crossing the levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D2-18	2286+00 to 2289+60	Utility poles running parallel to the levee at the landside toe.	Utility poles shall be relocated 30' from the landside levee toe.

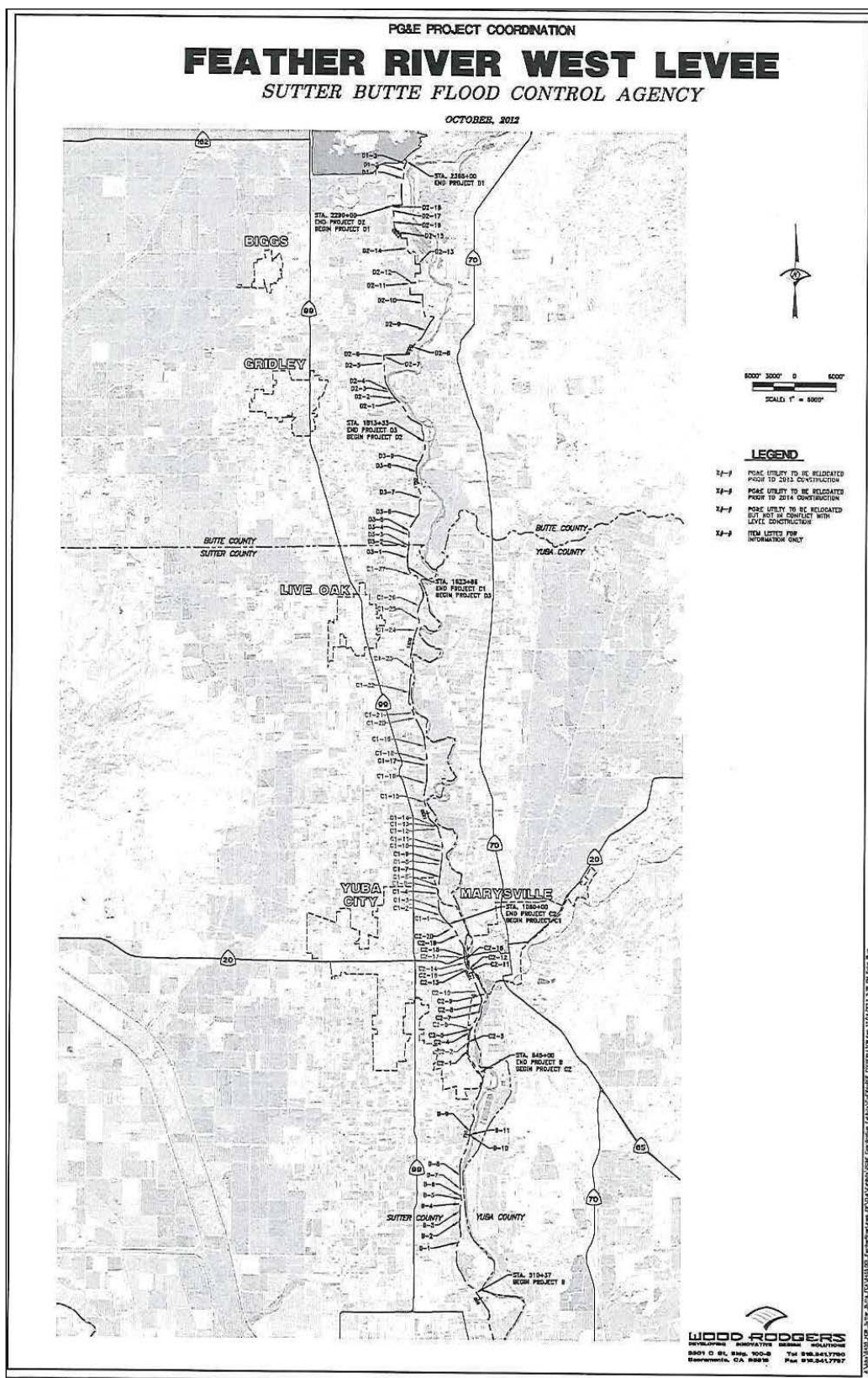
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Page 2 of 3

**PROJECT D3 (STATION 1623+86 TO 1813+33)
LEVEE CONSTRUCTION TO BEGIN IN 2014**

PROJECT NUMBER	STATION	DESCRIPTION	WORK REQUIRED
D3-1	1635+50 to 1638+70	Utility poles running parallel to the levee at the waterside levee toe. Overhead power line crossing the levee at Station 1638+70.	Utility poles shall be relocated 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D3-2	1651+80	Utility pole located in the waterside levee slope. Overhead power line crosses the levee at Station 1653+15.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D3-3	1654+20	Utility pole located at the landside levee toe.	Utility pole shall be relocated 30' from the landside levee toe.
D3-4	1665+30 to 1674+50	Utility poles running parallel to the levee at the landside levee toe. Overhead power line crossing the levee at Station 1665+30.	Utility poles shall be relocated 30' from the landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D3-5	1675+96	Utility pole located in the waterside levee slope. Overhead power line crosses the levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D3-6	1697+95	Utility pole located at the waterside levee toe. Overhead power line crossing the levee.	Utility pole shall be relocated 1' outside of the waterside construction limit line. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D3-7	1724+90 to 1731+50	Utility poles running parallel to the levee located in the waterside slope or at the waterside levee toe. Overhead power line crossing the levee at Station 1728+30.	Utility poles shall be relocated 1' outside of the waterside construction limit line. Structures located near the waterside levee toe may conflict with the relocation of the utility poles. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D3-8	1767+45	Utility pole located in landside slope near levee crown. Overhead power lines crossing the levee.	Utility pole shall be relocated 30' from the landside levee toe. Temporary removal, de-energizing, raising, or relocation of the power line to support levee construction required.
D3-9	1782+50	Utility pole located at landside levee toe.	Utility pole shall be relocated 30' from the landside levee toe.

NOTE: The existing utilities shown are based on topographic surveys and review of existing encroachment permits provided for the FRWL Project. Additional utilities may exist that have not been identified by these sources. PG&E shall review the appropriate electrical and gas maps to determine if additional utilities are located within the project area.



Response to Letter O1

O1-A

The additional detail provided by The Pacific Gas and Electric Company (PG&E) has been incorporated into Section 2.3.2, *Relocations, Demolition, and Removals*, as requested and has become part of the project's administrative record.

O1-B

The additional detail provided by PG&E has been incorporated into Section 2.3.2, *Relocations, Demolition, and Removals*, as requested and has become part of the project's administrative record. Discussion of PG&E activities has also been added to relevant resource chapters including *Visual, Cultural, Vegetation and Wetlands*, and *Wildlife*.

O1-C

PG&E added to Table 1-5.

O1-D

Comment noted. Text added to further describe PG&E's relocation activities including the potential need for broader land rights in Section 2.3.3.

O1-E

Comment noted. As a result of the number of relocations, the current list of PG&E encroachments to be addressed has been added to Appendix G and is referenced in the expanded text in Section 2.3.2.

O1-F

As a result of the number of relocations, the current list of PG&E encroachments to be addressed has been added to Appendix G and is referenced in the expanded text in Section 2.3.2. Text has been added to more thoroughly describe PG&E's activities as requested.

O1-G

Text added to Section 2.3.3 as requested.

O1-H

Text added to more thoroughly describe PG&E's activities in Section 2.3.3 as requested.

O1-I

The best management practice (BMP) added as requested in Section 2.4.12.

O1-J

Yes, appropriately-timed floristic surveys would be required in areas where PG&E facilities are located in land cover types that represent potential special-status plant habitat such as oak woodlands, ruderal areas outside the toe of the levee, ponds, streams, perennially inundated

canals/ditches that are vegetated, and riparian forest wetlands. Comment did not necessitate change to the Final EIS.

O1-K

Text describing Section 21083.4 of the California Public Resources Code has been added to the Regulatory Setting section of the *Vegetation and Wetlands* chapter.

O1-L

Discussion of the potential effects on wildlife as a result of proposed PG&E activities were added to the effect statements Effect WILD-2 through Effect WILD-9.

Discussion of the potential effects on vegetation and wetlands from relocation of PG&E facilities has been added to Effect VEG-1 through Effect VEG-6.

O1-M

Giant garter snake habitat areas are mapped and do not cover most or all of the project site. PG&E will need to conduct work within mapped giant garter snake habitat during the May–October window, as this will be required in the USFWS BO and CDFW incidental take permit (ITP). SBFCA has determined which ditches and canals are considered suitable habitat for GGS and these are mapped in the biological assessment (BA) (currently being finalized). The measure for minimizing effects on giant garter snake is appropriate and SBFCA will be assisting PG&E to accomplish its work within the required timeframe. Comment did not necessitate change to the Final EIS.

O1-N

PG&E should remove vegetation during the September 1–January 31 period to the maximum extent feasible as required in the mitigation measure. If this is not possible in some situations, Mitigation Measure WILD-MM-12 (previously Mitigation Measure WILD-MM-9) would apply, which requires focused surveys for nesting birds before tree removal. Comment did not necessitate change to the Final EIS.

O1-O

It has been decided that the permanent loss of aquatic habitat for giant garter snake will be compensated through purchase of mitigation credits (see Appendix F.3).

O1-P

Comment noted. Text revised as suggested in Section 3.15.2.1.

O1-Q

Comment noted. Text revised as suggested in Section 3.15.2.2.

O1-R

Comment noted. Text revised as suggested in Section 3.15.2.2.

01-S

Comment noted. Text revised as suggested in Section 3.15.2.2.

01-T

Comment noted. Text revised as suggested in Section 3.15.4.2.

01-U

Comment noted. Text revised as suggested in Section 3.16.2.3.

01-V

Comment noted. Text revised as suggested in Section 3.17.4.2.

01-W

Comment noted; because the commenter suggests no text revisions, text has not been revised in response to this comment. Comment did not necessitate change to the Final EIS.

01-X

Comment noted; because the commenter suggests no text revisions, text has not been revised in response to this comment. Comment did not necessitate change to the Final EIS.

01-Y

Comment noted. Comment did not necessitate change to the Final EIS.

01-Z

Comment noted. Comment did not necessitate change to the Final EIS.

Letter O2—American Rivers Trust, et al., John Cain, et al., February 13, 2013

Letter O2



American Rivers ♦ American Whitewater ♦ Audubon California ♦ California Trout
♦ California Waterfowl Association ♦ Defenders of Wildlife ♦ Friends of the River ♦
Natural Resources Defense Council ♦ Planning and Conservation League ♦
Sacramento River Preservation Trust ♦ The Bay Institute ♦ Trout Unlimited ♦

Jeff Koschak
U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814

Mike Inamine
Executive Director
Sutter Buttes Flood Control Agency
1227 Bridge Street, Suite C
Yuba City, CA 95991

February 13, 2013

Dear Mr. Inamine and Mr. Koschak:

Thank you for the opportunity to provide comments on the draft environmental impact report and study (DEIR/DEIS) for the Sutter Butte Flood Control Agency's Feather River West Levee Project that will be largely funded by state, and potentially federal, taxpayers. Our organizations recognize the paramount importance of protecting communities from catastrophic flooding and are very interested in working with your agency to obtain the taxpayer funding necessary for advancing a sustainable flood management project that is consistent with the newly adopted Central Valley Flood Protection Plan by protecting communities in your service area, improving recreational opportunities for Central Valley residents, and enhancing fish and wildlife habitat.

Our organizations fully support development of a flood protection project to protect communities in the project area. However, we are concerned that the DEIR has not fully addressed many issues and recommendations made in the scoping process (see e.g., American River's scoping comments to the DEIR, attachments A and B). Among our concerns, is that the DEIR does not consider a reasonable range of alternatives, and more importantly, that the proposed project could increase long-term flood risk both for the communities in the project area and urban communities downstream along the Sacramento River. We look forward to working with you in the Feather River Regional Flood Planning process in the months ahead to better understand your agency's perspective on these issues and hopefully develop a common vision for a path forward incorporates the multi-benefit flood management approach of the CVFPP.

In the near term, we are eager to work with you to expedite a "no-regrets" phase of the project that is necessary to improve flood protection for Yuba City without foreclosing long-term, sustainable and multi-benefit flood management projects that are essential to meeting California's public and natural resource management needs of the future. We would support a different alternative than those analyzed in the DEIR that would reduce long-term flood risk for communities in the project area, reduce long-term liabilities for the state and federal government, improve long-term water supply reliability for the State Water Project, improve water quality, and enhance fish and wildlife habitat. Specifically, our organizations request a robust analysis of a hybrid alternative that would involve fixing levees in place adjacent to urban areas, setting-back some reaches of the levee to attenuate flood flows, constructing low ring levees and drainage channels to route flood waters away from urban areas to the western and southern portions of the study area, and elevating structures in rural areas that would still experience shallow flooding under this hybrid approach. Because we believe a hybrid approach would better reduce long-

term flood risk for area communities, achieve the multi-benefit objectives of the Central Valley Flood Protection Plan and ultimately be a better use of taxpayer funding, our organizations do not support moving forward with the project as currently proposed in section 2.2.3 of the DEIR/DEIS.

American Rivers has reviewed the DEIR and notes that it does not adequately evaluate a range of alternatives, the growth inducing impacts of the project, the potential for the project to increase flood risk (as opposed to decreasing it), or consider the robustness of various alternatives to account for and adapt to a changing climate. The following is a summary of issues raised by American Rivers and more detailed comments regarding deficiencies in the DEIR and the FRWLP. We would like to discuss these issues with you in an effort to advance a robust, sustainable and cost-effective project.

- | | |
|-------------|---|
| O2-A | 1. The DEIR/DEIS incorrectly concludes that "the project has no significant effect on growth" and therefore fails to adequately describe growth inducing impacts or identify measures to mitigate these impacts, such as consistency with the SACOG Sustainable Communities Strategy. |
| O2-B | 2. The project increases long-term flood risk to local communities, downstream communities, and the state and federal government by facilitating development on a levee "protected" flood plain. The proposed project will ultimately lead to more development that would be extremely vulnerable to catastrophic flooding when the proposed 200 year levee is overtopped or fails in a major flood event. |
| O2-C | 3. The DEIR/DEIS does not provide sufficient information to properly evaluate the impacts of the proposed project on flood risk, agricultural land, traffic, air quality, fish and wildlife habitat, and other resources. |
| O2-D | 4. The DEIR/DEIS analysis regarding compliance with federal Executive Order 11988 regarding floodplain management is flawed as the project is not consistent with the purpose of EO 11988 to "avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative". |
| O2-E | 5. The DEIR/DEIR does not adequately consider a reasonable range of alternatives that could better protect public safety and the environment as required by CEQA. All three project alternatives evaluated in the DEIR are limited to modifying a federal levee along its existing alignment. The DEIR does not adequately consider other approaches such as levee setbacks, ring levees, flood bypasses, reservoir reoperation, elevating vulnerable structures, or a hybrid combination of all of the preceding approaches. |
| O2-F | 6. The DEIR fails to advance a multi-benefit approach and is therefore inconsistent with the Central Valley Flood Protection Plan. |
| O2-G | 7. The proposed project and its long-term operation will impede public access to the Feather River due to levee district policy of blocking public access to the Feather River corridor along public right-of-ways. |
| O2-H | 8. The project does not adequately evaluate flood management performance under climate change or future hydrologic changes associated with a warming climate. |
| O2-I | 9. The DEIR does not evaluate the performance of the project alternatives in combination with foreseeable projects such as an expanded bypass along the lower Feather River and Sutter Bypass pursuant to the Central Valley Flood Protection Plan. |
| O2-J | 10. The project does not evaluate the cumulative effects of the proposed project and associated flood control reservoirs on the fish and wildlife resources of the Feather River and its tributaries. |

Many of the problems with the project and DEIR/DEIS could be avoided or mitigated through a more comprehensive flood risk management approach designed to advance a more sustainable flood management system consistent with the Central Valley Flood Protection Plan. Growth inducing impacts and associated increases in flood risk could be avoided through a combination of flood compatible land use management, agricultural conservation easements, building codes, and a robust emergency response program. Flood risk

threats to downstream communities, project performance under climate change, and the lack of a multiple benefit approach could be resolved by a modified project design that utilizes a full toolbox of modern flood management strategies rather than a traditional levee focused approach.

Our organizations would like to work constructively with SBFCA and the USACE to expedite sustainable flood protection for the project area consistent with the Central Valley Flood Protection Plan, Executive Order 11988, and other applicable state and federal laws, plans, and policies. We believe that by working together we can develop a common vision that will better serve the taxpayers, and as a result, increase their willingness to invest in better flood management for the Central Valley.

Sincerely,



John Cain
American Rivers
Trust



Curtis Knight
California Trout

Diana Jacobs
Sacramento River Preservation



Chandra Ferrari
Trout Unlimited

Dave Steindorf
American Whitewater

Mark Hennelly
California Waterfowl Association



Gary Bobker
The Bay Institute



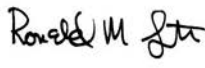
Monty Schmitt
Natural Resources Defense Council



Meghan Hertel
Audubon California



Kim Delfino
Defenders of Wildlife




Ron Stork
Friends of the River



Jonas Minton
Planning and Conservation League

Attachment A to Letter O2



Detailed Comments on the Feather River West Levee Project DEIR/DEIS

Prepared by American River

February 13, 2012

The following detailed comments to the Feather River West Levee Project (FRWLP) DEIR/DEIS supplement the cover letter submitted by several conservation organizations. The comments are based on a review of the information in the DEIR/DEIS and publicly available information properly referenced in the documents. If the project design is based on information not included or referenced in the DEIR/DEIS, we would appreciate learning more about how this information and analysis influenced the proposed project.

1. **The DEIR may erroneously conclude “the project has no significant effect on growth” and therefore may fail to adequately describe growth-inducing impacts or identify measures, such as consistency with the SACOG Sustainable Communities Strategy, to mitigate these impacts.**

American River’s 2011 scoping comments asked SBFCA to consider whether providing a 200-year level of flood protection would increase, rather than decrease, flood risk by incentivizing development in flood-prone areas. Per state law, the EIR discusses whether the proposed project could “foster economic or population growth, or the construction of additional housing, either directly or *indirectly*, in the surrounding environment.” Highlights from the EIR section include:

- Significant growth (above the state average growth rate) is expected in Sutter and Butte County by 2050, but primarily in Yuba City and Live Oak. Sutter County’s population is expected to triple to 280,000 people and Butte County’s population is expected to double to 440,000 people. (page 4-4);
- The EIR does not mention the SACOG Blueprint or Sustainable Communities Strategy in its review of “key development planning documents.” (page 4-6);
- The FRWLP would potentially remove “approximately 6,300 acres from the current officially mapped FEMA floodplain; however, only roughly 25% of this acreage (about 1,500 acres) is within areas planned for growth under the adopted municipal general plans.” (page 4-8)
- The EIR concludes, “The FRWLP has limited influence on such growth because the area that would be potentially removed from the floodplain that is currently planned for

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development is very small (approximately 1,500 acres of the 185,675 acres of the affected area or .8%). The FRWLP, therefore, has no significant effect on growth considering the magnitude of this change" (page 4-8 and 4-9).

Given the lack of discussion of the SACOG Blueprint and Sustainable Communities Strategy in the EIR, as well as ambitious plans for growth in Sutter County and Butte County, it is difficult to believe the FRWLP will not have growth-inducing impacts that are inconsistent with state and federal policies. While there is insufficient information in the EIR to evaluate the conclusion that the FRWLP will have no effect on growth, a review of the General Plans for Live Oak, Yuba City, and Sutter County indicates significant plans for additional growth in the FRWLP planning area. Furthermore, the Sutter-Butte Flood Control Agency states in one public outreach document that the levee improvement project would allow growth consistent with "state law and local policies." Some of this Sutter County growth is inconsistent with the SACOG Preferred Blueprint Scenario and SACOG Sustainable Communities Strategy, planning efforts for the Sacramento region that are consistent with both state and federal policies.¹ The Sutter-Butte Flood Control Agency provided some additional information about the source of the growth-inducing impact estimates a few days prior to the comment deadline, but more information is necessary to fully evaluate the validity of the estimates.

Since the FRWLP is largely dependent on state funding to move forward, it seems reasonable to expect consistency of the project with state and federal policies, such as reduced greenhouse gas emissions, reduced flood damage liability, decreased vehicle miles traveled, and preservation of farmland and open space. According to the Engineer's Report for the assessment, "the most important assumption in the cash flow analysis is that all funded improvements are subject to state cost sharing." Given the need for at least a 75% match of state funding, it is essential the project ensure consistency with state and federal policies. As discussed below (section 4), alternatives to a levee-focused approach that include a broad set of flood management measures would deliver a more sustainable and resilient flood protection system. In addition, any growth that is allowed as a result of the FRWLP should be consistent with the SACOG Preferred Blueprint Scenario and Sustainable Communities Strategy. Any proposed mitigation for growth-inducing impacts should help ensure such consistency.

Examples of inconsistency with the SACOG Preferred Blueprint Scenario and Sustainable Communities Strategy include, but are not limited to:

Live Oak. Growth plans for the small community of Live Oak are clearly inconsistent with the SACOG Preferred Blueprint Scenario and the Sustainable Communities Strategy. According to the Live Oak General Plan (adopted in March 2010), the City plans to increase the population from 6,225 in 2000 to 45,000 to 53,000 in 2030. Most of this growth is planned for undeveloped

¹ The Preferred Blueprint Scenario promotes compact, mixed-use development and more transit choices as an alternative to low-density development. The Sustainable Communities Strategy is a plan to meet the region's greenhouse gas emissions reduction target, while taking into account regional housing needs, transportation demands, and protection of resource and farm lands based on the best forecast of likely land use patterns across all 28 local jurisdictions in the Sacramento region.

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farmland. According to the preferred Blueprint scenario for Live Oak by SACOG, the vision is that "Live Oak grows at a steady, modest pace to a city of just over 16,000 people by 2050." SACOG's Sustainable Communities Strategy indicates no expected growth in the sphere of influence before 2035 because of the low regional growth forecast. In total, the Sustainable Communities Strategy 2035 forecast for Live Oak includes 848 new employees and 1,305 new housing units or around 10,000 people (assuming 8 units per acre). Approximately 97 percent of the housing growth forecast by the Sustainable Communities Strategy is in established communities and is largely building out many of the newer existing subdivisions. This forecast is clearly inconsistent with existing Live Oak General Plan. SACOG also identifies as an "issue to track" whether regional market pressures for Live Oak housing will return once the economy grows again and whether "the planned improvements to the levee system are constructed, as expected, by 2015."

Unincorporated Sutter County. The proposal for a new rural community in the FRWLP planning area focused on the existing community of Sutter, as well as potential employment corridors, appears inconsistent with the SACOG Sustainable Communities Strategy. The SACOG Sustainable Communities Strategy, forecast includes 2,598 new employees and 4,157 new housing units in unincorporated Sutter County by 2035, most (3,475 housing units) of which are in the community of Sutter Pointe outside of the FRWLP planning area and the remaining housing units are allocated to established communities. The 4,654 acres of projected growth for the community of Sutter in the Sutter County General Plan, on the other hand, would result in over 30,000 housing units (assuming 8 housing units per acre) not accounted for in the Sustainable Communities Strategy. It is also unclear whether the Sutter County General Plan projected growth in the Live Oak and Yuba City spheres of influence are consistent with the SACOG Sustainable Communities Strategy. The Sutter County General Plan also indicates the County has large plans for growth adjacent to Yuba City, particularly along Highway 99 south of Yuba City. It is unclear how much of this growth overlaps with growth accounted for in the Yuba City and Live Oak General Plans, as the Sutter County General Plan refers to the need to reach agreement with the cities regarding development.

It is also possible that the local governments could change zoning in the future, therefore increasing the project's growth-inducing impacts. Yuba City has not updated its General Plan since 2004, for example, and local governments in Sutter County and Butte County are not offering to restrict future growth in the planning area. Finally, even 1,500 acres of new development could result in significant population growth. Assuming 8 housing units per acre and 2.5 people per household, 1,500 acres would amount to 30,000 people. This represents a 50 percent increase in the population of Yuba City, currently at 64,000 people. Given these and other concerns described in these comments, additional information is needed to answer the following questions:

- How does providing flood protection to a 326 square mile areas (ES. 1.2) only remove 6,300 acres from the floodplain?
- How does the project only result in 1,500 acres of additional development when the General Plans for Yuba City, Live Oak, and Sutter County (not to mention Butte County) indicate proposals for significantly more growth?
- Where are the 1,500 acres located?

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- How would this inundation limit growth under the no action alternative?
- Do Sutter County and Butte County need to build additional houses to provide the match required to construct the project?

Table 1: Sutter County Projected Growth for Study Area*		Acres
Spheres of Influence (SOI)		
Live Oak SOI		6,511
Yuba City SOI		5,886
Possible Future Expanded Yuba City SOI		5,079
Subtotal—Spheres of Influence		17,476
Rural Planned Communities		
Sutter*		4,654
Employment Corridor		
North of Yuba City		599
South of Yuba City		548
Subtotal—Employment Corridor		1,147
Industrial/Commercial		367
Total		24,791

Source: Sutter County General Plan (2011)

Growth inducing impacts of the proposed project could and should be mitigated by one or more of the following measures:

- Agricultural conservation easements to protect agricultural lands from urban development that would increase the risk of catastrophic flooding to life and property.
 - Concentrate future growth in more compact developments designed to minimize loss of farmland, traffic impacts, and flooding hazards, consistent with the SACOG Sustainable Communities Strategy and Preferred Blueprint Scenario.
 - Zoning restrictions and building codes to reduce the footprint and improve the flood resiliency of proposed development. Although SBFCA may not be able to impose these requirements, the local jurisdictions that will benefit the project could impose these requirements in exchange for the millions of state and federal dollars that will be invested in this project.
 - Growth inducing impacts could be avoided by substantially altering the flood protection strategy.
2. **The project may increase flood risk to local communities, downstream communities, and the state and federal government by facilitating development on a levee “protected”**

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flood plain. During the scoping period, American Rivers asked for these factors to be considered, but the DEIR ignored or dismissed them.

The project increases long-term risk to local communities by facilitating additional development in RD 1. Over the long-term, this new development will be extremely vulnerable to catastrophic flooding when the proposed 200-year levee eventually fails. By definition, a 200-year levee has a 12% probability of failure over the course of a 30 year mortgage. Assuming this level of risk simply to protect existing development is not necessary and is inconsistent with the primary objective of the Central Valley Flood Plan, which endeavors to reduce both the probability and consequences of flooding. Flood risk is the product of both the probability and consequences of flooding. Improving the levee in places reduces the probability of failure, and facilitating growth will actually increase the consequences of flooding.

Levees are not designed to withstand all foreseeable floods. When levees in the project area or in downstream areas fail, the state and federal government will be forced to spend billions on flood relief, as occurred during Hurricanes Katrina and Sandy, or to simply abandon the affected communities. Either way, the consequences for the state and federal taxpayers and economy will be devastating.

The project increases flood risk for downstream communities, particularly in metropolitan Sacramento, by increasing the probability that extreme floods will be routed downstream. Reinforcing the levees in the project area will reduce the probability of levee failure in the project area, and flood waters that would be routed into rural basins under the no action alternative will be routed downstream where tens of thousands of people live in deep floodplains along the Sacramento River.

The DEIR/DEIS claims, but provides no evidence, that the proposed project would not cause increased flows, stage, and velocity in downstream areas during extreme events. A proper and legally required hydraulic analysis showing how the project would perform relative to the no-action would show the existing levee breaching during a 100 or 200 year event under the no-action. Comparison of this levee breach scenario with the proposed project specifically designed to reduce the probability of levee breach would show that more water moves downstream during extreme events under the proposed project.

In the absence of any proper hydraulic analysis supporting the contention that the project has no downstream hydraulic impacts, the DEIR/DEIS simply refers to misconstrued or misguided state policies in the following paragraph to arrive at the conclusion that the project has no downstream impacts:

“Furthermore, these improvements would be consistent with the principles that have guided the management of the SRFCP over the past century and with the policies adopted by the state legislature calling for an immediate and comprehensive effort to increase the level of flood protection provided to the region in the SRFCP area. Finally, the CVFPB resolution adopting the CVFPP (Resolution No. 2012-25) states that . . . the

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Board has consistently found that no adverse hydraulic impacts are associated with levee strengthening projects that do not change the alignment or height of the levee, or the cross section of the channel and overflow area.
Alternative 1 would therefore have no effect related to changes in water surface elevations and flood safety. Mitigation is not required. (pg. 2.1-20, 21)"

General state policy or practice does not provide a reasonable basis for ignoring the impacts of a specific project and do not supersede the requirements of NEPA and CEQA to document the impacts of specific projects. Moreover, the DEIR/DEIS analysis and deference to state policy and precedent is flawed in a number of ways. The claims that improvements are consistent with the principles that have guided the management of the SRFCP over the past century are unsubstantiated and at least partially untrue. There is a very long history of litigation and "levee wars" regarding the adverse effect of one landowners levee repair on another landowner's property, which are documented in the book Battling the Inland Sea.

The appeal to the state legislature's activities is equally flawed. Laws passed by the state legislature do call for an increased level of flood protection, but they don't require that it be done by improving levees in place in a manner that will increase downstream flood risk. To the contrary, they provide for a comprehensive approach that involves both "structural and nonstructural means for improving the performance and elimination of deficiencies of levees, weirs, bypasses, and facilities, including facilities of the State Plan of Flood Control." They then enumerate a long list of objectives (which does not explicitly mention "levee improvements"), including expanding the capacity of the flood protection system in the Sacramento-San Joaquin Valley, to either reduce flood flows or convey floodwaters away from urban areas, reduce damage from flooding, and identify opportunities and incentives for expanding or increasing use of floodway corridors. As discussed in the alternatives section below, this project simply ignores these elements of the flood legislation in favor of a levee focused project.

It is true that the CVFCB resolution adopting the CVFPP stated that "nothing in the CVFPP . . . is intended to change the Boards practice for evaluation of hydraulic impacts. Under this practice, the Board has consistently found that no adverse hydraulic impacts are associated with levee strengthening projects that do not change the alignment or height of the levee," but this acknowledgement is not an endorsement of past practice or an application to the FRWLP. It simply says that the plan is silent on this subject. It might have made sense for the board to make such a determination where the action before them involved repair of a short segment of levee, but does it make sense when the repair involves substantially upgrading 41 miles of levee? Lastly, any casual observer of California flood management policy realizes that past practice is not necessarily good practice today. In fact, a troubled history of bad policy along with changing land use and climactic conditions prompted the legislature to pass and the governor to sign major legislation that dramatically reformed the CVFPB.

Despite the language of CVFPP (Resolution 15), the State System wide Investment Approach (SSIA) described in CVFPP is in fact an acknowledgement that repairing all upstream levees

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to their original design capacity for both rural and urban areas is neither affordable nor desirable. It found that increasing repair to upstream levees to original design capacity without increasing levee height would increase stage by 1.2 feet in Sacramento, which is very significant. The SSIA instead opted for a strategy. If the CVFPP determined that fixing levees upstream would increase downstream flood stage, why would the proposed project be any different?

Mitigation Measures

Increases in flood risk associated with the project could be avoided or mitigated with some of the following measures:

- Increases in flood risk in the study area could be avoided by acquisition of agricultural easements or zoning restrictions, particularly on deep flood plains, to prevent development on deep floodplains.
- Increases in flood risk in the study area could be avoided, particularly in shallow floodplains, by instituting building codes requiring all new development to be constructed above the base flood elevation.
- Increases in downstream flood risk could be mitigated by modifying project design to maintain transitory storage in the study area or elsewhere.

3. **The DEIR/DEIS does not provide sufficient information for reviewers to evaluate the impacts of the proposed project.** Without this information, reviewers and decision makers may not be able to accurately evaluate the adequacy of the DEIR/DEIS or the value of the project.

Information on basic hydraulic studies is also not available in the DEIR/DEIS or any of the documents properly referenced in the document. The floodplain inundation maps (plates 2-14 thru 2-19) cite Peterson Brustad, 2012 as the source, but no description or reference for this document is provided in the entire DEIR. These documents and plates 2-14 thru 2-19 divide the various reaches into six different segments for the purpose of the underlying hydraulic analysis, but these segments are different than the 37 different study reaches. These hydraulic analyses are foundational to the flood performance and design of the project, but without proper references and documents, it is impossible to align the six "segments" which formed the basis of the underlying hydraulic analysis with the 39 "study reaches" described in the DEIR/DEIS. Aside from Plates, 2-14 thru 2-19, the following statement from page 1-9 of the Executive Summary is the only reference in the DEIR/DEIS:

"Note: Certain planning and engineering studies for the project make reference to segments within the planning area under which the reaches above are grouped. These segment designations do not have substantial bearing on the alternatives descriptions, environmental setting, or determination of effects and therefore are not used in this document for simplicity."

This statement is incorrect. The underlying hydraulic analysis reported using the segment system is foundational to alternative formulation and justification. It is impossible to

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evaluate which levee segments must be fixed to protect Yuba City from deep flooding. Project proponents at SBFCA did not provide the proper reference documents or citations even after we made a special request before the end of the comment period.

Mitigation

This deficiency could be remedied by reissuing the DEIR/DEIS with specific maps delineating the parcels that will be removed from floodplain and susceptible to urban development as a result of the project.

4. **The DEIR/DEIS analysis regarding compliance with Executive Order 11988 regarding floodplain management is flawed.** The project appears to be in violation of Executive Order 11988, which is attached. The DEIR/DEIS explains that:

“EO 11988 requires a Federal agency, when taking an action, to avoid short and long-term adverse effects associated with the occupancy and modification of a floodplain, and it must avoid direct and indirect support of floodplain development whenever there is a reasonable and feasible alternative.”

Section 4.1.2.1 of the DEIR/DEIS argues incorrectly that there are not reasonable or feasible alternatives. As discussed in more detail below the DEIR/DEIS did not sufficiently evaluate other alternative designs that could “avoid direct or indirect support of floodplain development.

The project entails modification of a federal levee and will require a 408 permit from the United States Army Corps of Engineers (USACE) under the Rivers and Harbors Act of 1908. It is not realistic to assume that USACE will disregard EO 11988. As a result, the project proponents decision to screen out other alternatives will risk delaying implementation of badly needed flood protection improvements for the project area. Flood protection for existing communities and structures in the project area could be expedited by implementing the mitigation measures identified in sections 1 and 2 above or by considering a broader range of alternatives.

5. **The DEIR/DEIR does not adequately consider a reasonable range of alternatives that could better protect public safety and the environment as required by CEQA.** All three project alternatives evaluated in the DEIR are limited to modifying a federal levee along its existing alignment. The DEIR does not adequately consider other alternatives such as levee setbacks, ring levees, flood bypasses, reservoir reoperation, or elevating vulnerable structures. The DEIR/DEIS fails to adequately consider several critical and viable alternatives, including those identified in the initial project scoping period (Attachment B).

Section 2.7 describes the screening process that proponents used to screen-out various flood management approaches such as set-back and ring levees, but the assumptions and information utilized in this screening process are flawed, and more importantly, the

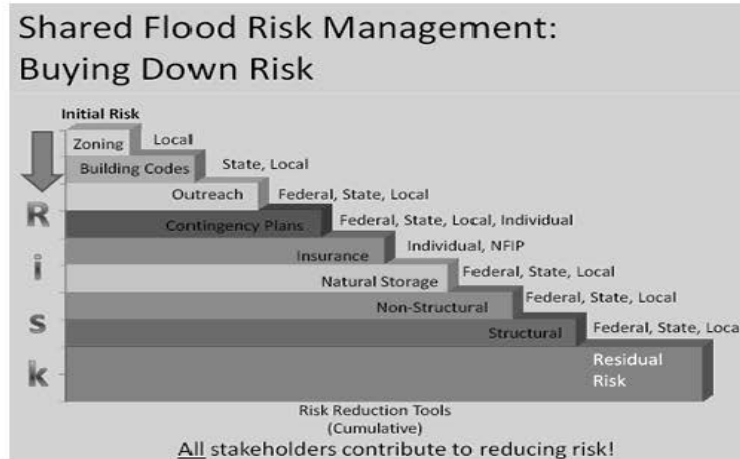
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screening process did not consider any hybrid alternatives comprised of a broad toolbox of approaches. Failure to consider an alternative that considered more than one approach led the proponents to discard approaches simply because one single approach was not sufficient to provide protection in the view of the proponent. It is worth noting that the recommended alternative uses a hybrid approach that relies on both seepage berms and slurry walls. Would it have been reasonable to discount one of these two approaches simply because anyone of these two approaches by themselves would have been insufficient?

The underlying hydrology and hydraulic analysis that this screening analysis is based upon is not referenced in the DEIR/DEIS making it difficult to evaluate the performance of alternatives screened from the analysis. From discussions with SBFCA staff during the comment period, we learned that screening analysis was based in part on analysis conducted in 2010 as part of the "study area plan" prepared by Peterson Brustad, but this analysis was not presented as part of the DEIR/DEIS, was not referenced in the DEIR/DEIS, and is not publicly available. We were only able to obtain a copy of this document two days before the end of the comment period and are currently reviewing it. It does provide some overly simplistic analysis of ring levees, J levees, and a flood bypass; but it does not consider other flood management approaches such as zoning, building codes, and flood insurance. Moreover, it appears that the underlying hydraulic analysis did not assume the existing TRLA setback on the left bank or potential levee setbacks downstream in combination with the approaches screened. Due to the lack hydraulic information, we were unable to evaluate the validity of the screening analysis. We look forward to learning more about this analysis in future discussions with the project proponent.

Many of the problems with the project and DEIR/DEIS could be avoided or mitigated through a more comprehensive flood risk management approach designed to advance a more sustainable flood management system. As illustrated in the following figure and described in the attached paper by Major General Don Riley (Attachment C), a previous director of Civil Works for the Army Corps of Engineers, levees are only small part of what is necessary to protect communities from flooding. Failure to consider a hybrid approach results in a defective project and DEIR/DEIS.

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We therefore request that the DEIR/DEIS and the underlying project description be substantially revised to identify and consider a comprehensive alternative that utilizes multiple approaches for improving flood protection for the project area. A hybrid approach could better reduce long-term liabilities for the state and federal government, reduce long-term flood risk for communities in the project area, improve long-term water supply reliability for the State Water Project, improve water quality, and enhance fish and wildlife habitat. Our organizations would support a hybrid alternative that would involve fixing levees in place adjacent to urban areas, setting-back some reaches of the levee to attenuate flood flows, constructing low ring levees and drainage channels to route flood waters away from urban areas to the western and southern portions of the study area, and elevating structures in rural areas that would still be vulnerable to shallow flooding under this hybrid approach.

Levee Setbacks

The screening process uses the following three arguments to remove setback levees from further consideration: 1) incompatibility with existing land uses, 2) environmental impacts of levee setbacks, and 3) relative cost of levee setbacks (FRWLP 2.7.2.1). We provide detailed comments on these three lines of reasoning below:

- The document cites poor compatibility with land use due to the potential for conversion of existing agricultural, commercial, and residential land, and for subjecting additional lands to flooding as a reason for screening out setback levees as a feasible alternative. New floodplain associated with setback levees is not *de facto* removed from agricultural uses. To the contrary, the majority of the land currently in the floodway is farmed, and

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much of it is in perennial tree crops. Even if setback levees removed land from agricultural production, setbacks should be considered for their public safety benefits. According to an analysis conducted for SBFCA and the USACE, levee setbacks in or near the project area would substantially reduce flood stage and velocity, and presumably the risk of levee failure. Lastly, this consideration fails to consider the value to water quality and fish and wildlife that would result from setback levees, effectively ignoring significant environmental benefits of levee setbacks.

- The document cites concerns for environmental effects on land use, mineral resources, transportation, air quality, noise, and other resources as a reason for screening out setback levees as a feasible alternative. Effects on mineral resources and transportation are unsubstantiated in the document, and seem very unlikely. Effects on air quality, noise and "other resources" would be short term in nature, and not likely to be much greater than those associated with the recommended alternative, or the growth facilitated by the alternative. In the long-term, setback levees would improve air quality, and would reduce noise impacts on wildlife and recreational river users by increasing the natural buffer between the river and surrounding sources of noise pollution. The long-term benefits to public safety, river health, fish and wildlife habitat, and recreation greatly outweigh any immediate, short-term impacts associated with the construction of setback levees.
- The document cites concerns for the cost of setback levees relative to other alternatives considered. No supporting information is provided in the document regarding cost estimates, how they were calculated, or if they were quantified at all. However, in a previous document titled Pre-Design Formulation Report on the FRWLP, segments 1 to 7, the costs of using setback levees is compared to that of *in situ* levee improvements (included in Appendix B). The criteria for consideration of setback levees as an alternative was a cost ratio of less than 5:1 (setback levee: *in situ*). One scenario for the considered segment was found to be at a ratio of 3:1. While other setback alternatives had a higher ratio, it appears that the cost of levee setback was exaggerated due to unrealistically high land cost estimates. The analysis assumes land costs of \$25,000 per acre, but the costs of agricultural land is significantly less.

Setback levees are not suitable options in all circumstances, but setback levees in selected locations require further consideration as a project alternative, or as additional measures in the considered alternatives. Many segments of the project reach are strong candidates for setback levees, and ultimately, the recommended alternative should not be without setback levees as a central part of the overall project. Inclusion of setback levees would be complimentary to other Feather River projects such as the planned floodplain augmentation at the Oroville Wildlife Area, and the Feather River Setback Levee at Star Bend, and could together create unprecedented benefits for the watershed through improvements in public safety, fish and wildlife habitat, and recreational opportunities.

These benefits of setback levees and other alternatives become especially important in light of the predicted effects of climate change for the region as discussed below. Peak flows are expected to occur earlier, rain-on-snow events and their associated extreme flooding are

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expected to occur more frequently, and more precipitation is expected to fall as rain instead of snow through the winter. These factors will complicate the management of reservoirs for multiple benefits and decrease the predictability of high flow releases, making the adaptive capability of the greater floodplain area associated with setback levees increasingly valuable in the future.

Ring Levees

Ring levees and all variations of the ring levee concept are excluded on the basis that they fail to protect the entire reclamation district from 200 year flood protection, but based on discussion with SBFCA staff it is our understanding that the recommended alternative does not provide 200 year protection for the entire area. The following language from table 2-21 explains why ring levees were excluded from further consideration:

“Fail; ring levee(s) may achieve 200-year protection for the area within the ring (or areas within multiple rings) but would not address the project objective to reduce flood risk for the entire planning area. The vast majority of the planning area would remain at current or heightened risk levels, especially agricultural communities, commodities, and infrastructure.”

This preceding statement is problematic for a number of reasons. It is based on a misunderstanding of the definition of flood risk and neglects to consider the role that other risk management measures could play to reduce flood risk for the entire study area in combination with a ring levee approach. Risk is quantified by multiplying the probability of flooding by the consequence of flooding. By definition, ring levee that protect urban areas reduce risk for the entire area by reducing the probability of flooding in urban areas where the consequences of flooding would be greatest for the entire study area. Furthermore, ring levees in combination with other measures could reduce risk for areas outside of the ring levees. For example, elevating structures in shallow agricultural floodplains or providing flood insurance for less protected areas would also reduce flood risk.

Ring levees protect urban areas by routing flood waters to other locations. There are many potential variations of ring levees or cross levees in combination with drainage swales that could route flood waters away from urban areas in the service area. For example a low cross levee combined with a drainage swale created immediately north of Yuba City could route flood waters around Yuba City and into the low lying western and southern areas of the study area. Although this approach would not provide the same level of flood protection for the rural areas north of Yuba City, it would also not require routing all floodwaters downstream toward Sacramento for the purpose of protecting Yuba City. As a result, it would not transfer flood risk from upstream areas to downstream areas, a problem discussed in section 2.

J Levees

A J-levee is a special hybrid of repair-in-place of existing levees and ring levees, with the “J” referring to the shape of the levee in planform. Rather than entirely encircling a limited area like a ring levee, a J-levee would combine repair-in-place of existing levees connected with a

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partial ring levee(forming the “J” shape). Table 2-22 eliminates a J levee from further consideration for the following reason:

“Uncertain; a J-levee may need further evaluation to determine ability to meet the project objective to reduce flood risk for the entire planning area.”

If more evaluation is necessary to determine if a J-levee could meet the project purpose, why was it excluded from further evaluation?

Reservoir Reoperation and Flood Bypasses

Reservoir reoperation and flood bypasses were excluded because they were outside of the jurisdiction of the project proponent. This may be a reason for the project proponent to exclude this measure from further consideration, but if the state and federal government is paying for 80% or more of the project, is not a legitimate reason for them to exclude it from further analysis.

Raising Building Pads

Raising building pads was excluded from further analysis with the following language from table 2-26:

“Fail; raising building pads would not meet the objective to reduce flood risk for the entire planning area because approximately 30,000 existing structures would need to be modified which is not reasonably feasible and because tens of thousands of acres of agricultural lands would remain at risk.”

The reasoning from the preceding statement is fundamentally flawed and no data is presented to show that it is actually cost prohibitive. Raising building pads to one foot above BFE would in fact substantially reduce flood risk, if not eliminate it for all structures. No data is presented on exactly how many structures exist in the planning area and how many would need to be elevated. Most historic structures are elevated above ground level because early residents knew that doing so was prudent. It may not be feasible for the entire planning area, but it could play a substantial risk reduction role in large areas of the planning area. Lastly, while it is true that raising building pads would not reduce probability of flooding for agricultural lands, but the consequences of temporary flooding on agricultural lands is relatively low compared to urban flooding in other parts of the state. The state and federal taxpayers are not inclined to spend millions or billions of dollars to protect agricultural lands from very infrequent flood events.

6. **The DEIR fails to advance a multi-benefit approach and could preclude future multi-benefit projects along the Feather River, which would be inconsistent with the Central Valley Flood Protection Plan.** We are particularly concerned that building the proposed project would foreclose any opportunities to restore floodplain habitat in the Feather River floodway. Floodplain restoration is essential to restoring habitat for endangered salmon and other fish and wildlife species. Protection and restoration of endangered salmon runs is necessary to comply with the state and federal Endangered Species Act. Failure to restore salmon populations could severely affect the State Water Project, which provides water to

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tens of millions of Californians. Once the project is built, it will be difficult if not impossible to obtain permits for floodplain restoration projects that locally increase flood elevations even slightly. We have no assurances that the project proponent or other local entities would not litigate to stop any project with even minor hydraulic effects.

At the direction of the state legislature, the Department of Water Resources spent four years and large amounts of money preparing the Central Valley Flood Protection Plan (CVFPP) to meet a variety of flood management and ecological objectives enumerated in section 9616 of the California water code (attachment C). The plan includes a number of objectives including promoting ecosystem function and multiple benefit projects. The Central Valley Flood Protection Board amended and adopted with CVFPP with a board resolution that requires development of multi-benefit projects. Resolved 11(m) states:

“Wherever feasible, improvements to the SPFC should be implemented in accordance with CWC § 9616 and provide for multiple benefits through projects designed to improve public safety while achieving other benefits, such as restoration of ecosystem functions and habitats within the flood management system.”

By their own acknowledgement, the project proponents have made no attempt to design the project to meet multiple-benefits or restore ecosystem function. The project proponents expect to obtain well over \$100 million in state funds to construct the project, but it is not clear why the state should support the project without assurances that the project proponents will support multiple benefit projects along the Feather River once their project is completed.

7. **The proposed project will continue levee district policy of blocking public access to the Feather River corridor, a public trust resource.** The DEIS/DEIR recognizes that there is demand for increased recreational and public access opportunities on the Feather River within the project area, but existing practices by the SBFCA or its member agencies prevent the public from accessing the Feather River along public right-of-ways.

Access to the Feather River from the dry side of the levee is obstructed by the levee, a man-made barrier predating this project but related to it. It is illegal to climb the levee other than at ramps, because climbing the unprotected bank of the levee may cause erosion and damage the levee. This obstruction of access to the river and its banks is mitigated by the presence of ramps providing a means of crossing between the lands on the wet side of the levee and lands on the dry side of the levee. These ramps are currently obstructed by gates which are almost always maintained locked closed by levee maintenance organizations (Department of Water Resources (DWR), Levee District Number One of Sutter County (LD1), Levee District Number Nine of Sutter County (LD9)). Each of these entities is a California public agency. DWR is an “authorizing stakeholder” in the project, and LD1 and LD9 are constituent parties to the Sutter Butte Flood Control Agency joint powers agreement. The levee, gates and the practices of maintaining the gates locked closed are pre-existing facts which must be considered a cumulative with the effects of this project. The pre-existing practice of keeping the gates locked closed is a good indicator that the levee maintenance

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organizations will keep the gates locked closed after the project is completed, which also must be considered as a cumulative effect of the project.

Levee District 1 in Yuba City area has consistently locked gates and restricted access to the river despite complaints from the public. Roads that connect Highway 99 and other main arteries to the river were authorized by the Sutter County Board of Supervisors as public thoroughfares to the river in the mid-1800s. These roads are maintained by the County. In the last ten years, farmers have installed "No Trespassing" signs, and in some cases, gates or other obstacles that discourage public access to these public roads. LD 1 has permanently locked a gate across a public road at Star Bend. The County Public Works Department has been reluctant to remedy the situation by demanding that access to the public be kept open.

The public has the right to access and use the river and the adjacent dry land below the high water mark, and state and local agencies have an obligation to avoid impinging on this right. We are concerned that FRWLP will decrease options for public access through removal of levee ramps or maintaining the practices of maintaining locked gates. The DEIS/DEIR does not adequately address impacts to recreation and public river access. The DEIS/DEIR provides no assurances that SBFCA will seek commitment from its member agencies to improve upon past policies and practices, and allow public access to the river and floodplain to the maximum extent feasible. More detailed comments on recreation and public access were provided by Francis E. Coates, which we incorporate in these comments by reference.

In addition to the indirect consequences of this project on access to public recreational resources, the construction of new flood facilities could directly impede public use. The EIR/EIR states in Chapter 3.14 that "Seepage and stability berm installation in Alternative 3 could affect the long-term access to portions of the Oroville Wildlife Area, O'Connor Lakes Unit and Nelson Slough Unites of the Feather River Wildlife Area and the Bobelaine Audubon Sanctuary. The new topography on the approach side of the these facilities may requires the construction of new roadway and trail access, utilities, parking, staging and other facility or infrastructure improvements. With the implementation of the environmental commitment requiring reconstruction of affected formal park facilities and preservation of boat launch access during and following construction activities (described in Chapter 2, Alternatives), this effect would be less than significant. No mitigation is required." We were unable to find any such "environmental commitment" to reconstruct formal park facilities and preserve boat launch access in the referenced section. Moreover, even if there were such a commitment made, there is little assurance that the level of access presently available to the public through informal access and by means of other facilities beyond "formal park facilities" and boat launches would not be impaired by this project.

- 8. The project does not adequately evaluate performance under climate change or future hydrologic changes associated with a warming climate.**

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The final engineers report for the Sutter Butte Flood Control Agency by Parsons Brinkerhoff (July 14, 2010) provides the following description of changing hydraulic conditions, but the DEIR does not provide an analysis of how the project will perform under anticipated hydrologic conditions.

“California weather is changing, perhaps as a result of global climate change. More precipitation is falling in the mountains as rain, and less as snow pack. This change will increase the stress on the region's flood control system.”

Despite this acknowledgement, the project does not provide any analysis of how the project will perform under a changing climate and does not appear to utilize climate change hydraulics and hydrology to evaluate project alternatives. An analysis that considered the high probability of climate change would very likely reach different conclusions regarding the merits of various flood management approaches, all of which were screened-out of the alternatives analysis.

These benefits of setback levees and other alternatives become especially important in light of the predicted effects of climate change for the region. Peak flows are expected to occur earlier, rain-on-snow events and their associated extreme flooding are expected to occur more frequently, and more precipitation is expected to fall as rain instead of snow through the winter. These factors will complicate the management of reservoirs for multiple benefits and decrease the predictability of high flow releases, making the adaptive capability of the greater floodplain area associated with setback levees increasingly valuable in the future.

9. The DEIR does not evaluate the performance of the project alternatives in combination with existing and foreseeable projects that have or will expand flood carrying capacity in the lower Feather River, such as an expanded bypass along the lower Feather River and Sutter Bypass.

The study plan hydraulic analysis (Peterson Brustad, 2010), which purportedly forms the basis for the underlying alternatives analysis, including the alternatives screening analysis described in section 5 above, does not include the TRLA set-back project as part of the base case. The TRLA set-back project reduces flood stage elevations by six inches, which is very significant. Furthermore, the hydraulic analysis used to screen-out several alternatives does not consider the synergistic effects of downstream levee setbacks that are planned for in the CVFPP. A July 2011 analysis of Lower Feather River set-back levees found that a setback downstream of Laurel Road could lower flood stage elevations in the lower Feather River by one to two feet in the vicinity of Yuba City. This is very significant, especially since inundation depths in most of Yuba City under several breach scenarios (depicted in plates 2-14 to 2-19) are less than two feet. How would various scenarios that were screened-out using other hydraulic assumptions (Peterson Brustad, 2010) such as levee set-backs, ring levees, and raised build pads perform differently if the hydraulic analysis had assumed a major levee setback downstream of Laurel Road? To provide a credible alternative analysis and to qualify for state funding, the project proponents should reconsider how various alternative approaches would perform assuming a major levee set-back in the lower Feather River as proposed in the CVFPP.

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10. The project does not evaluate the cumulative effects of the proposed project and associated flood control reservoirs on floodplain habitats and the fish and wildlife resources of the Feather River and its tributaries.

The system of dams, levees, canals on the Feather River and the urban and agricultural they support in the study area have contributed to the precipitous decline of fish and wildlife resources. Spring-run salmon on the Feather River are endangered and fall-run salmon are greatly reduced. The decline of these fisheries has imposed severe hardship on commercial fisherman and deprived recreational anglers of a value past time and food source. Salmon and other fisheries like the Sacramento Splittail are dependent on inundated floodplain habitat for reproduction or nursery habitat. Floodplains are also a source of primary and secondary productivity for a number of other fish and wildlife species.

Oroville Dam, project levees, particularly in the lower portion of the study reach, agriculture in the flood way, historical dredging activities, and local berms constructed to reduce the frequency of agricultural land in the floodway have all contributed to the decline of floodplain habitat, and by extension, fish and wildlife dependent on those habitats. Modern perennial agriculture (orchard) in the floodway is only possible because of the regulation of the Feather River by Oroville Dam and the state water project, which has further reduced the area and frequency of inundated floodplain habitat.

The same can be said for terrestrial and avian species, particularly migratory birds. The river floodplains historically provided wetland habitat for millions for ducks, geese, swans, and other waterfowl that evolved to over-winter in the Central Valley, particularly in the Sacramento Valley. Those wetlands were reduced to below 5% of their historical extent due to the construction of levees and other land use changes. An important recreational resource and industry is now dependent on artificially flooded lands and subject to the uncertainties of water supply, electricity prices, farm practices and government appropriations to sustain them.

There is clear scientific evidence documented in several peer reviewed scientific studies that restoration of floodplain habitat would substantially improve fisheries populations. Some of these fish populations are endangered, which may require extraordinary measures by the state water project, to release substantially more water during the spring for the purpose of increasing the frequency of inundated floodplain habitat. Alternatively, floodplain habitat could be restored with considerably less water by reconnecting floodplains and secondary channels in the Feather River floodway that are currently blocked by small levees or berms or by increasing the elevation of the channel thalweg where it was previously dredged. These manipulations in the floodplain, however, would by design increase water surface elevations at least for moderate flood events. As discussed in section six above, we are concerned that the project proponents or other parties will litigate to prevent future floodplain restoration once their project has been built on the technical grounds that such floodplain restoration would increase water surface elevations during floods. Although, it is not necessarily true that floodplain restoration would increase water surface elevations during large flood events, opponents to such restoration could preclude it indefinitely with legal arguments that it would compromise public safety.

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The proposed project to build the levee in place does not create any additional flood conveyance capacity and therefore any future efforts that could conceivably decrease flood conveyance would be viewed by local, state, and federal flood management agencies as an impact to public safety that must be mitigated. As discussed above, the project would facilitate additional urban development in the levee "protected" floodplain increasing the public safety imperative and thus aggravating the perceived, if not real, conflict between public safety and fisheries restoration. The very best way to protect public safety, particularly against the increasing storms that climate change will bring, is to give the river more room to safely convey flood flows. Giving the river more room also allows for other uses of the floodplain such as recreation, trails, wetlands that filter and cleanse water, and fish and wildlife habitat.

Attachment B to Letter O2



July 5, 2011
Feather River West Levee Project
American Rivers Comments

July 5, 2011

Ingrid Norgaard, Project Manager
Sutter Butte Flood Control Agency
c/o ICF International
630 K Street, Suite 400
Sacramento, CA 95814

Dear Ms. Norgaard,

American Rivers, in its commitment to river conservation, public safety, and sustainable flood management, would like to offer comments with respect to the proposed Feather River West Levee Project (FRWLP). It is American Rivers' concern that the project, as currently proposed, fails to incorporate long-term, sustainable flood management strategies, and places both human and natural communities at increased risk of future catastrophic flooding.

The project's EIR/EIS should examine a broad range of issues and mitigation alternatives in order to formulate a more comprehensive and sustainable approach to flood management in the Sutter/Butte region, as described below.

Growth Inducing Impacts

The report should consider whether providing 200-year flood protection from Thermalito Afterbay to Yuba City north would increase, rather than decrease, flood risk by incentivizing development in these flood-prone areas. Flood risk, as defined by the state of California, equals the probability of flooding multiplied by the consequences of a flood. Although the project will reduce the *probability* of local flooding, the *consequences* of eventual flooding in a heavily developed community would be much more severe. Facilitating development efforts by cities, counties, and property owners in flood-prone regions may substantially increase flood risk over the long term.

Downstream Flood Impacts

In its emphasis on structural levee improvements, the proposed project could route more floodwater downstream to urban communities. By reducing the probability of levee failure in the Yuba City area during a large flood event, the project would necessarily increase the probability that flows would be routed downstream, and this would increase the risk of catastrophic flooding in Sacramento and West Sacramento. The report should consider and select alternative improvement measures that would avoid or mitigate these impacts.

Impacts Under Climate Change

The project should consider whether the proposed levee improvements will actually provide 100-year and 200-year protection under projected future flows assuming climate change.

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July 5, 2011
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Evaluate a Broader Range of Alternatives

In order to better advance the state and federal flood management goals, the EIR/EIS must evaluate a broader range of alternatives including:

1. **Levee Setbacks:** Evaluate the potential benefits of levee setbacks, including reduced operations and maintenance costs, improvements to local flood protection in the face of climate change, and benefits for fisheries and wildlife habitat.
2. **Ring Levees and Building Modifications:** Examine the potential that ring levees offer for protecting the existing communities of Gridley, West Gridley, Biggs, and Yuba City as an alternative to the proposed project. Elevate buildings outside the ring levees to protect against flooding.
3. **Flood Bypass:** Evaluate the opportunity to reduce peak flows during extreme flood events by rerouting floodwaters into the Butte Basin through a new flood bypass. Such a bypass could divert water out of Thermalito Afterbay and the Feather River and into the Cherokee Canal.
4. **Oroville Reservoir:** Consider opportunities for reducing extreme flood events by reoperating the Oroville reservoir either to expand the flood reservation or improve real time operations during flood events.
5. **Oroville Wildlife Area Levee Modification:** Explore opportunities for reducing peak flood flows through planned modifications to levees adjacent to the Oroville Wildlife Area that would increase flooding of the OWA. Modifying levees along the OWA is required by Article A106 Riparian and Floodplain Improvement Program in the Settlement Agreement for the Relicensing of the Oroville Facilities, FERC Project 2100, executed by the Department of Water Resources and 52 other parties in March 2006.

The costs and benefits of all alternatives should be evaluated in light of the life cycle costs of maintaining and operating the project.

By examining the aforementioned potential project impacts and considering additional mitigation alternatives, the FRWLP can adopt a sustainable flood management vision and offer long-term public safety as well as ecological benefits to the communities of the Sutter/Butte region.

We hope that, in compiling the EIR/EIS and in moving forward with the project, the Sutter Butte Flood Control Agency and its collaborators will consider our comments and be part of the movement towards a safer, more sustainable future for California's Central Valley.

Respectfully,



John Cain,
Director of Conservation
California Flood Management



Megan Randall,
California Flood Management Fellow

Attachment C to Letter O2

2/26/2008

IMPROVING PUBLIC SAFETY – FROM FEDERAL PROTECTION TO SHARED RISK REDUCTION

Major General Don Riley
US Army Corps of Engineers

Responsibility for flood risk management in the United States is a shared responsibility between multiple Federal, State, and local government agencies with a complex set of programs and authorities. Nationally, both the US Army Corps of Engineers (USACE) and the Federal Emergency Management Agency (FEMA) have programs to assist states and communities in reducing flood damages and promoting sound flood risk management. The authority to determine how land is used in floodplains and to enforce flood-wise requirements is entirely the responsibility of state and local government. Floodplain management choices made by state and local officials, in turn, impact the effectiveness of federal programs to mitigate flood risk and the performance of federal flood damage reduction infrastructure. One key challenge is to ensure that as the public and government leaders make flood risk management decisions, they integrate environmental, social, and economic factors and consider all available tools to improve public safety. Importantly, we must ensure the public is educated both as to the risks they face and actions they can take to reduce their risks. Because of this complex arrangement of responsibilities, only a life-cycle, comprehensive and collaborative systems approach will enable communities to sustain an effective reduction of risks from flooding.

Where we are now – “The government will protect us”

Individual agency processes and procedures typically have provided the venue for planning and implementation of flood damage reduction measures. The present process to engage the Corps of Engineers is on a project by project basis, even though the Corps has made advances in incorporating collaborative approaches and assessing alternatives in a watershed context. Traditionally, the Corps focuses on reducing flood damages by managing floods that cause damage largely by decreasing the probability of flooding. The Corps develops alternatives based on reducing known potential flood damages, with minimal consideration of future land use or other social effects. Additionally, the Corps infrequently assesses options to reduce consequences should a failure occur. Whether communities strive for 1% level of protection or greater, the present process drives decisions based on reducing the potential for failure or *reducing flood damages* and does not incorporate an assessment of localized risks and consequences. Figure 1 is an example of the present paradigm – a system based on an appropriate “level of protection”, which provides credence to the notion that “the government is responsible” and “therefore, we are protected.” Complicating the matter, many prudent cost share sponsors seek to limit their costs; which drives some to seek to achieve only a level of protection whereby community members will not be required to purchase flood insurance.

2/26/2008

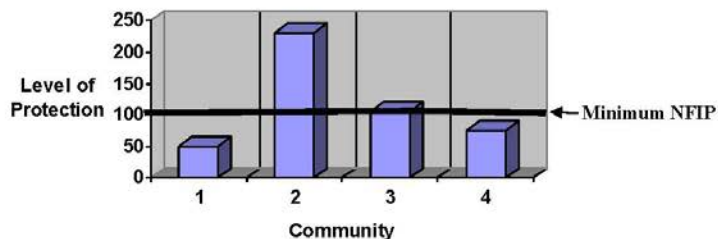


Figure 1 – Selecting Level of Protection

Where we need to be – “We are all responsible for our safety”

To significantly improve public safety, we are pursuing a level of public education at which our fellow citizens are so well informed they are able to assume responsibility for decisions they make about where and how they want to live and work. We then can engage in a comprehensive and multi-government and private citizen collaborative process to *managing flood risk* to achieve levels of tolerable risk. The Corps is expanding our traditional approach to focus on the most effective combination of tools available that citizens may use to lower or “buy down” their flood risk (as illustrated in Figure 2). We will consider not only reducing the probability of flooding, but also reducing the consequences should a flood occur. A multitude of options and tools becomes more evident through the process of assessing the consequences of a flood. Furthermore, the decision on which tools to implement involves all stakeholders. For example, the Corps can help reduce risk by levee construction. Whereas in a coordinated but independent action, local government can further reduce flood risk by implementing flood plain management actions such as evacuation plans, zoning ordinances, and public outreach.

This cannot be achieved without a new paradigm of joint partnerships in a comprehensive approach of public education and flood risk management. For instance, the insurance industry has a similar goal of assessing hazards and therefore, there exists an opportunity for the federal government and insurance industry to leverage mutual efforts, such as in the areas of research and development, implementation of assessment tools, and increase of public and policy-makers awareness.

2/26/2008

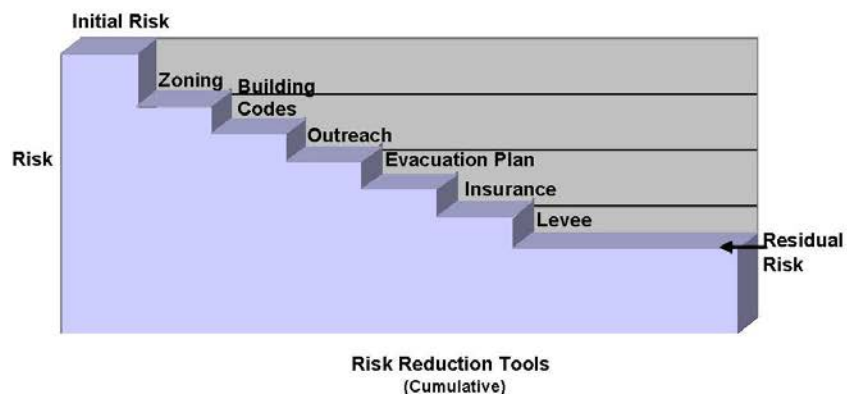


Figure 2 - FLOOD RISK MANAGEMENT: ALL STAKEHOLDERS CONTRIBUTE TO REDUCING RISK

What we are doing now

In May 2006, USACE established the National Flood Risk Management Program (NFRMP) to take the first step of bringing together other federal agencies, state and local governments and agencies, and the private sector to develop and implement a unified national flood risk management strategy that eliminates conflicts between different flood risk management programs and takes advantage of all opportunities for collaboration. Additionally, we are seeking partnerships with those that best understand risk, such as banking and insurance industries to share data and risk model development. We also wish to collaborate more closely with business councils and developers so they understand local flood risks, and can assist us in public education campaigns.

An integral part of the NFRMP is the Interagency Flood Risk Management Committee (IFRMC), with core leadership from USACE, FEMA, Association of State Flood Plain Managers (ASFPM), and the National Association of Flood and Stormwater Management Agencies (NAFSMA). This committee will be expanded to include other stakeholder groups, such as resource agencies. Through this process, organizational leadership should use or change, when practicable, existing policies and programs to transition into a comprehensive and shared process of lowering or “buying down” flood risks. As the transition occurs, the IFRMC should identify and recommend necessary administrative, policy, and legislative changes for complete implementation of the collaborative risk-informed decision process for managing flood risks.

Letter O3—American Rivers Trust, et al., John Cain, et al., February 15, 2013



American Rivers ♦ American Whitewater ♦ Audubon California ♦ California Trout
California Waterfowl Association ♦ Defenders of Wildlife ♦ Friends of the River
Natural Resources Defense Council ♦ Planning and Conservation League
Sacramento River Preservation Trust ♦ South Yuba River Citizens League
The Bay Institute ♦ Trout Unlimited

Jeff Koschak
U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814

Mike Inamine
Executive Director
Sutter Buttes Flood Control Agency
1227 Bridge Street, Suite C
Yuba City, CA 95991

February 15, 2013

Dear Mr. Inamine and Mr. Koschak:

Thank you for the opportunity to provide comments on the draft environmental impact report and study (DEIR/DEIS) for the Sutter Butte Flood Control Agency's Feather River West Levee Project that will be largely funded by state, and potentially federal, taxpayers. Our organizations recognize the paramount importance of protecting communities from catastrophic flooding and are very interested in working with your agency to obtain the taxpayer funding necessary for advancing a sustainable flood management project that is consistent with the newly adopted Central Valley Flood Protection Plan (CVFPP) by protecting communities in your service area, improving recreational opportunities for Central Valley residents, and enhancing fish and wildlife habitat.

Our organizations fully support development of a flood protection project to protect communities in the project area. However, we are concerned that the DEIR has not fully addressed many issues and recommendations made in the scoping process (see e.g., American River's scoping and DEIR comments, attachments A and B). Among our concerns, is that the DEIR does not consider a reasonable range of alternatives, and more importantly, that the proposed project could increase long-term flood risk both for the communities in the project area and urban communities downstream along the Sacramento River. We look forward to working with you in the Feather River Regional Flood Planning process in the months ahead to better understand your agency's perspective on these issues and hopefully develop a common vision for a path forward that incorporates the multi-benefit flood management approach of the CVFPP.

In the near term, we are eager to work with you to expedite a "no-regrets" phase of the project that is necessary to improve flood protection for Yuba City without foreclosing long-term, sustainable and multi-benefit flood management projects that are essential to meeting California's public and natural resource management needs of the future. We would support a different alternative than those analyzed in the DEIR that would reduce long-term flood risk for communities in the project area, reduce long-term liabilities for the state and federal government, improve long-term water supply reliability for the State Water Project, improve water quality, and enhance fish and wildlife habitat. Specifically, our organizations request a robust analysis of a hybrid alternative that would involve fixing levees in place adjacent to urban areas, setting-back some reaches of the levee to attenuate flood flows, constructing low ring levees and drainage channels to route flood waters away from urban areas to the western and southern portions of the study area, and elevating structures in rural areas that would still experience

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shallow flooding under this hybrid approach. Because we believe a hybrid approach would better reduce long-term flood risk for area communities, achieve the multi-benefit objectives of the Central Valley Flood Protection Plan, and ultimately be a better use of taxpayer funding, our organizations do not support moving forward with the project as currently proposed in section 2.2.3 of the DEIR/DEIS.

American Rivers has reviewed the DEIR and notes that it does not adequately evaluate a range of alternatives, the growth inducing impacts of the project, the potential for the project to increase flood risk (as opposed to decreasing it), or consider the robustness of various alternatives to account for and adapt to a changing climate. The following is a summary of issues raised by American Rivers in more detailed comments regarding deficiencies in the DEIR and the FRWLP. We would like to discuss these issues with you in an effort to advance a robust, sustainable and cost-effective project.

- | | |
|-------------|---|
| O3-A | 1. The DEIR/DEIS incorrectly concludes that "the project has no significant effect on growth" and therefore fails to adequately describe growth inducing impacts or identify measures to mitigate these impacts, such as consistency with the Sacramento Area Council of Government (SACOG) Sustainable Communities Strategy. |
| O3-B | 2. The project increases long-term flood risk to local communities, downstream communities, and the state and federal government by facilitating development on a levee "protected" flood plain. The proposed project will ultimately lead to more development that would be extremely vulnerable to catastrophic flooding when the proposed 200 year levee is overtopped or fails in a major flood event. |
| O3-C | 3. The DEIR/DEIS does not provide sufficient information to properly evaluate the impacts of the proposed project on flood risk, agricultural land, traffic, air quality, fish and wildlife habitat, and other resources. |
| O3-D | 4. The DEIR/DEIS analysis regarding compliance with federal Executive Order 11988 regarding floodplain management is flawed as the project is not consistent with the purpose of EO 11988 to "avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative." |
| O3-E | 5. The DEIR/DEIR does not adequately consider a reasonable range of alternatives that could better protect public safety and the environment as required by CEQA. All three project alternatives evaluated in the DEIR are limited to modifying a federal levee along its existing alignment. The DEIR does not adequately consider other approaches such as levee setbacks, ring levees, flood bypasses, reservoir reoperation, elevating vulnerable structures, or a hybrid combination of all of the preceding approaches. |
| O3-F | 6. The DEIR fails to advance a multi-benefit approach and is therefore inconsistent with the Central Valley Flood Protection Plan. |
| O3-G | 7. The proposed project and its long-term operation will impede public access to the Feather River due to levee district policy of blocking public access to the Feather River corridor along public right-of-ways. |
| O3-H | 8. The project does not adequately evaluate flood management performance under climate change or future hydrologic changes associated with a warming climate. |
| O3-I | 9. The DEIR does not evaluate the performance of the project alternatives in combination with foreseeable projects such as an expanded bypass along the lower Feather River and Sutter Bypass pursuant to the Central Valley Flood Protection Plan. |
| O3-J | 10. The project does not evaluate the cumulative effects of the proposed project and associated flood control reservoirs on the fish and wildlife resources of the Feather River and its tributaries. |

Many of the problems with the project and DEIR/DEIS could be avoided or mitigated through a more comprehensive flood risk management approach designed to advance a more sustainable flood management system consistent with the Central Valley Flood Protection Plan. Growth inducing impacts and associated

increases in flood risk could be avoided through a combination of flood compatible land use management, agricultural conservation easements, building codes, and a robust emergency response program. Flood risk threats to downstream communities, project performance under climate change, and the lack of a multiple benefit approach could be resolved by a modified project design that utilizes a full toolbox of modern flood management strategies rather than a traditional levee focused approach.

Our organizations would like to work constructively with SBFA and the USACE to expedite sustainable flood protection for the project area consistent with the Central Valley Flood Protection Plan, Executive Order 11988, and other applicable state and federal laws, plans, and policies. We believe that by working together we can develop a common vision that will better serve the taxpayers, and as a result, increase their willingness to invest in better flood management for the Central Valley.

Sincerely,



John Cain
American Rivers



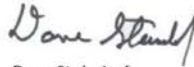
Curtis Knight
California Trout



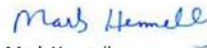
Diana Jacobs
Sacramento River Preservation Trust



Chandra Ferrari
Trout Unlimited



Dave Steindorf
American Whitewater



Mark Hennelly
California Waterfowl Association



Gary Bobker
The Bay Institute



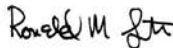
Meghan Hertel
Audubon California



Monty Schmitt
Natural Resources Defense Council



Kim Delfino
Defenders of Wildlife



Ron Stork
Friends of the River




Jonas Minton
Planning and Conservation League



Caleb Dardick
South Yuba River Citizens League

Attachment A to Letter O3



Detailed Comments on the Feather River West Levee Project DEIR/DEIS

Prepared by American River

February 15, 2013

The following detailed comments to the Feather River West Levee Project (FRWLP) DEIR/DEIS supplement the cover letter submitted by several conservation organizations. The comments are based on a review of the information in the DEIR/DEIS and publicly available information properly referenced in the documents. If the project design is based on information not included or referenced in the DEIR/DEIS, we would appreciate learning more about how this information and analysis influenced the proposed project.

- The DEIR/DEIS may erroneously conclude that “the project has no significant effect on growth” and therefore may fail to adequately describe growth-inducing impacts or identify measures, such as consistency with the SACOG Sustainable Communities Strategy, to mitigate these impacts.**

American River’s 2011 scoping comments (attachment B) asked SBFCA to consider whether providing a 200-year level of flood protection would increase, rather than decrease, flood risk by incentivizing development in flood-prone areas. Per state law, the DEIR/DEIS discusses whether the proposed project could “foster economic or population growth, or the construction of additional housing, either directly or *indirectly*, in the surrounding environment.” Highlights from the DEIR/DEIS section include:

- Significant growth (above the state average growth rate) is expected in Sutter and Butte County by 2050, but primarily in Yuba City and Live Oak. Sutter County’s population is expected to triple to 280,000 people and Butte County’s population is expected to double to 440,000 people. (page 4-4);
- The DEIR/DEIS does not mention the SACOG Blueprint or Sustainable Communities Strategy in its review of “key development planning documents.” (page 4-6);
- The FRWLP would potentially remove “approximately 6,300 acres from the current officially mapped FEMA floodplain; however, only roughly 25% of this acreage (about 1,500 acres) is within areas planned for growth under the adopted municipal general plans.” (page 4-8)
- The DEIR/DEIS concludes, “The FRWLP has limited influence on such growth because the area that would be potentially removed from the floodplain that is currently planned for

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development is very small (approximately 1,500 acres of the 185,675 acres of the affected area or .8%). The FRWLP, therefore, has no significant effect on growth considering the magnitude of this change" (page 4-8 and 4-9).

Given the lack of discussion of the SACOG Blueprint and Sustainable Communities Strategy in the DEIR/DEIS, as well as ambitious plans for growth in Sutter County and Butte County, it is difficult to believe the FRWLP will not have growth-inducing impacts that are inconsistent with state and federal policies. While there is insufficient information in the DEIR/DEIS to evaluate the conclusion that the FRWLP will have no effect on growth, a review of the General Plans for Live Oak, Yuba City, and Sutter County indicates significant plans for additional growth in the FRWLP planning area. Furthermore, the Sutter-Butte Flood Control Agency states in one public outreach document that the levee improvement project would allow growth consistent with "state law and local policies." Some of this Sutter County growth is inconsistent with the SACOG Preferred Blueprint Scenario and SACOG Sustainable Communities Strategy, planning efforts for the Sacramento region that are consistent with both state and federal policies.¹ The Sutter-Butte Flood Control Agency provided some additional information about the source of the growth-inducing impact estimates a few days prior to the comment deadline, but more information is necessary to fully evaluate the validity of the estimates.

Since the FRWLP is largely dependent on state funding to move forward, it seems reasonable to expect consistency of the project with state and federal policies, such as reduced greenhouse gas emissions, reduced flood damage liability, decreased vehicle miles traveled, and preservation of farmland and open space. According to the Engineer's Report for the assessment, "the most important assumption in the cash flow analysis is that all funded improvements are subject to state cost sharing." Given the need for at least a 75% match of state funding, it is essential the project ensure consistency with state and federal policies. As discussed below (section 4), alternatives to a levee-focused approach that include a broad set of flood management measures would deliver a more sustainable and resilient flood protection system. In addition, any growth that is allowed as a result of the FRWLP should be consistent with the SACOG Preferred Blueprint Scenario and Sustainable Communities Strategy. Any proposed mitigation for growth-inducing impacts should help ensure such consistency.

Examples of inconsistency with the SACOG Preferred Blueprint Scenario and Sustainable Communities Strategy include, but are not limited to:

Live Oak: Growth plans for the small community of Live Oak are clearly inconsistent with the SACOG Preferred Blueprint Scenario and the Sustainable Communities Strategy. According to the Live Oak General Plan (adopted in March 2010), the City plans to increase the population from 6,225 in 2000 to 45,000 to 53,000 in 2030. Most of this growth is planned for undeveloped

¹ The Preferred Blueprint Scenario promotes compact, mixed-use development and more transit choices as an alternative to low-density development. The Sustainable Communities Strategy is a plan to meet the region's greenhouse gas emissions reduction target, while taking into account regional housing needs, transportation demands, and protection of resource and farm lands based on the best forecast of likely land use patterns across all 28 local jurisdictions in the Sacramento region.

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farmland. According to the preferred Blueprint scenario for Live Oak by SACOG, the vision is that "Live Oak grows at a steady, modest pace to a city of just over 16,000 people by 2050." SACOG's Sustainable Communities Strategy indicates no expected growth in the sphere of influence before 2035 because of the low regional growth forecast. In total, the Sustainable Communities Strategy 2035 forecast for Live Oak includes 848 new employees and 1,305 new housing units or around 10,000 people (assuming 8 units per acre). Approximately 97 percent of the housing growth forecast by the Sustainable Communities Strategy is in established communities and is largely building out many of the newer existing subdivisions. This forecast is clearly inconsistent with existing Live Oak General Plan. SACOG also identifies as an "issue to track" whether regional market pressures for Live Oak housing will return once the economy grows again and whether "the planned improvements to the levee system are constructed, as expected, by 2015."

Unincorporated Sutter County: The 2011 Sutter County General Plan describes ambitious plans for development in unincorporated Sutter County that appear to be inconsistent with the SACOG Sustainable Communities Strategy. The County plans development in new "rural communities", employment corridors, existing spheres of influence, and potential spheres of influence (Table 1 and Figure 1). Figure 1 shows how the Live Oak sphere of influence will grow all the way to the levee and a new "potential sphere of influence" would against the levees on the east and into the deep floodplain on the west. The SACOG Sustainable Communities Strategy, forecast includes 2,598 new employees and 4,157 new housing units in unincorporated Sutter County by 2035, most (3,475 housing units) of which are in the community of Sutter Pointe outside of the FRWLP planning area and the remaining housing units are allocated to established communities. The 4,654 acres of projected growth for the community of Sutter alone, on the other hand, would result in over 35,000 housing units (assuming 8 housing units per acre) not accounted for in the Sustainable Communities Strategy. It is also unclear whether the Sutter County General Plan projected growth in the Live Oak and Yuba City spheres of influence are consistent with the SACOG Sustainable Communities Strategy. The Sutter County General Plan also indicates the County has large plans for growth adjacent to Yuba City, particularly along Highway 99 south of Yuba City. It is unclear how much of this growth overlaps with growth accounted for in the Yuba City and Live Oak General Plans, as the Sutter County General Plan refers to the need to reach agreement with the cities regarding development.

It is also possible that the local governments could change zoning in the future, therefore increasing the project's growth-inducing impacts. Yuba City has not updated its General Plan since 2004, for example, and local governments in Sutter County and Butte County are not offering to restrict future growth in the planning area. Finally, even 1,500 acres of new development could result in significant population growth. Assuming 8 housing units per acre and 2.5 people per household, 1,500 acres would amount to 30,000 people. This represents a 50 percent increase in the population of Yuba City, currently at 64,000 people. Given these and other concerns described in these comments, additional information is needed to answer the following questions:

- How does providing flood protection to a 326 square mile areas (ES. 1.2) only remove 6,300 acres from the floodplain?

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- How does the project only result in 1,500 acres of additional development when the General Plans for Yuba City, Live Oak, and Sutter County (not to mention Butte County) indicate proposals for significantly more growth?
- Where are the 1,500 and 6,300 acres located?
- How would floodplain management laws limit growth under the no action alternative compared to the proposed project?
- Do Sutter County and Butte County need to build additional houses to generate sufficient tax revenues to fund the local cost share for the project?

Table 1: Sutter County Projected Growth for Study Area*	Acres
Spheres of Influence (SOI)	
Live Oak SOI	6,511
Yuba City SOI	5,886
Possible Future Expanded Yuba City SOI	5,079
Subtotal—Spheres of Influence	17,476
Rural Planned Communities	
Sutter*	4,654
Employment Corridor	
North of Yuba City	599
South of Yuba City	548
Subtotal—Employment Corridor	1,147
Industrial/Commercial	367
Total	24,791

Source: Sutter County General Plan (2011)

Mitigation Measures

Growth inducing impacts of the proposed project could and should be mitigated by one or more of the following measures:

- Agricultural conservation easements to protect agricultural lands from urban development that would increase the risk of catastrophic flooding to life and property.
- Concentrate future growth in more compact developments designed to minimize loss of farmland, traffic impacts, and flooding hazards, consistent with the SACOG Sustainable Communities Strategy and Preferred Blueprint Scenario.
- Zoning restrictions and building codes to reduce the footprint and improve the flood resiliency of proposed development. Although SBFCA may not be able to impose these requirements, the local jurisdictions that will benefit from the project could impose these requirements in exchange for the millions of state and federal dollars that will be invested in this project.
- Growth inducing impacts could be avoided by substantially altering the flood protection strategy.

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CHAPTER 3: LAND USE
The Land Use Plan

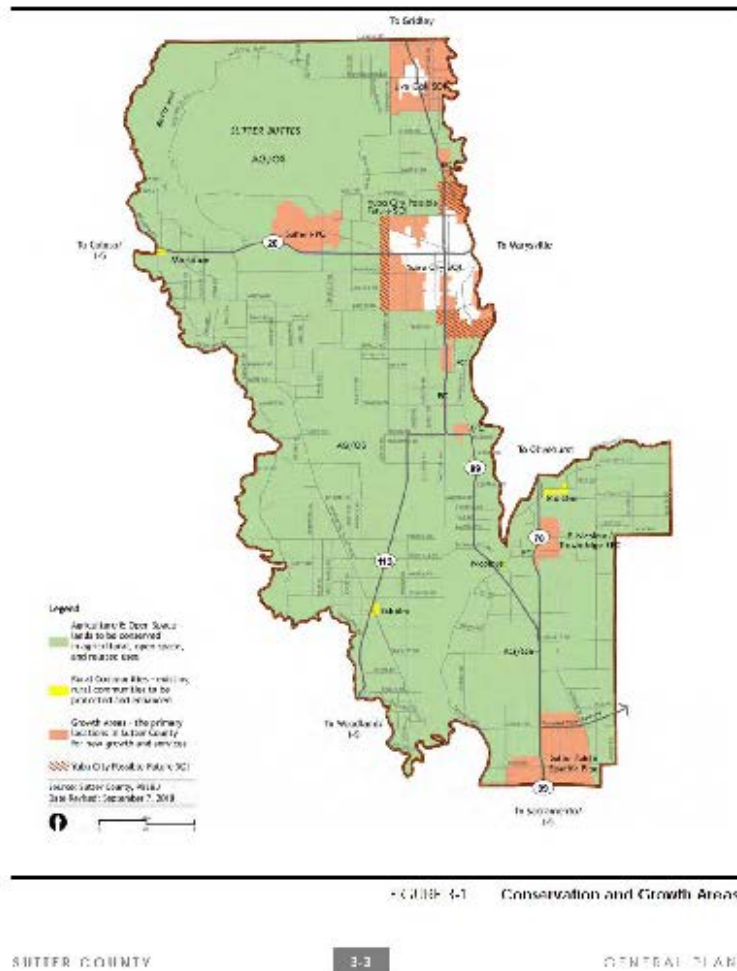


Figure 1: Sutter County General Plan. Note major expansion plans for Yuba City and Live Oak. These are already low density communities. More compact growth patterns would lower flood risk and reduce loss of agricultural lands.

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2. **The project may increase flood risk to local communities, downstream communities, and the state and federal government by facilitating development on a levee “protected” flood plain.** During the scoping period, American Rivers asked for these factors to be considered (Attachment B), but the DEIR/DEIS ignored or dismissed them.

The project increases long-term risk to local communities by facilitating additional development in the project area. Over the long-term, this new development will be extremely vulnerable to catastrophic flooding when the proposed 200-year levee eventually fails. By definition, a 200-year levee has a 12% probability of failure over the course of a 30 year mortgage. Simply providing a 200-year-levee does not necessarily reduce risk and is therefore inconsistent with the primary objective of the Central Valley Flood Plan, which endeavors to reduce both the probability and consequences of flooding. Flood risk is the product of both the probability and consequences of flooding. Improving the levee in-place reduces the probability of failure, but facilitating growth will actually increase the consequences of flooding, thereby increasing the overall risk of flooding.

Levees are not designed to withstand all foreseeable floods. When levees in the project area or in downstream areas fail, the state and federal government will be forced to spend billions on flood relief, as occurred during Hurricanes Katrina and Sandy, or to simply abandon the affected communities. Either way, the consequences for the state and federal taxpayers and economy will be devastating.

The project increases flood risk for downstream communities, particularly in metropolitan Sacramento, by increasing the probability that extreme floods will be routed downstream. Reinforcing the levees in the project area will reduce the probability of levee failure in the project area, and flood waters that would be routed into rural basins under the no action alternative will routed downstream where tens of thousands of people live in deep floodplains along the Sacramento River.

The DEIR/DEIS claims, but provides no evidence, that the proposed project would not cause increased flows, stage, and velocity in downstream areas during extreme events. A proper and legally required hydraulic analysis showing how the project would perform relative to the no-action would show the existing levee breaching during a 100 or 200 year event under the no-action. Comparison of this levee breach scenario with the proposed project specifically designed to reduce the probability of levee breach would show that more water moves downstream during extreme events under the proposed project.

In the absence of any proper hydraulic analysis supporting the contention that the project has no downstream hydraulic impacts, the DEIR/DEIS simply refers to misconstrued or misguided state policies in the following paragraph to arrive at the conclusion that the project has no downstream impacts:

“Furthermore, these improvements would be consistent with the principles that have guided the management of the SRFCP over the past century and with the policies adopted by the state legislature calling for an immediate and comprehensive effort to

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increase the level of flood protection provided to the region in the SRFCP area. Finally, the CVFPB resolution adopting the CVFPP (Resolution No. 2012-25) states that . . . the Board has consistently found that no adverse hydraulic impacts are associated with levee strengthening projects that do not change the alignment or height of the levee, or the cross section of the channel and overflow area.

Alternative 1 would therefore have no effect related to changes in water surface elevations and flood safety. Mitigation is not required. (pg. 2.1-20, 21)”

General state policy or practice does not provide a reasonable basis for ignoring the impacts of a specific project and do not supersede the requirements of NEPA and CEQA to document the impacts of specific projects. Moreover, the DEIR/DEIS analysis and deference to state policy and precedent is flawed in a number of ways. The claims that improvements are consistent with the principles that have guided the management of the SRFCP over the past century are unsubstantiated and at least partially untrue. There is a very long history of litigation and “levee wars” regarding the adverse effect of one landowners levee repair on another landowner’s property, which are documented in the book Battling the Inland Sea.

The appeal to the state legislature’s activities is equally flawed. Laws passed by the state legislature do call for an increased level of flood protection, but they don’t require that it be done by improving levees in place in a manner that will increase downstream flood risk. To the contrary, they provide for a comprehensive approach that involves both “structural and nonstructural means for improving the performance and elimination of deficiencies of levees, weirs, bypasses, and facilities, including facilities of the State Plan of Flood Control.” They then enumerate a long list of objectives (which does not explicitly mention “levee improvements”), including expanding the capacity of the flood protection system in the Sacramento-San Joaquin Valley, to either reduce flood flows or convey floodwaters away from urban areas, reduce damage from flooding, and identify opportunities and incentives for expanding or increasing use of floodway corridors. As discussed in the alternatives section below, this project simply ignores these elements of the flood legislation in favor of a levee focused project.

It is true that the CVFPB resolution adopting the CVFPP stated that “nothing in the CVFPP . . . is intended to change the Boards practice for evaluation of hydraulic impacts. Under this practice, the Board has consistently found that no adverse hydraulic impacts are associated with levee strengthening projects that do not change the alignment or height of the levee,” but this acknowledgement is not an endorsement of past practice or an application to the FRWLP. It simply says that the plan is silent on this subject. It might have made sense for the board to make such a determination in the past where the action before them involved repair of a short segment of levee, but does it make sense when the repair involves substantially upgrading 41 miles of levee? Lastly, any casual observer of California flood management policy realizes that past practice is not necessarily good practice today. In fact, a troubled history of bad policy along with changing land use and climactic conditions prompted the legislature to pass and the governor to sign major legislation that dramatically reformed the CVFPB.

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Despite the language of CVFPP (Resolution 15), the State System wide Investment Approach (SSIA) described in CVFPP is in fact an acknowledgement that repairing all upstream levees to the DEIR/DEIS original design capacity for both rural and urban areas is neither affordable nor desirable. It found that increasing repair to upstream levees to original design capacity without increasing levee height would increase stage by 1.2 feet in Sacramento, which is very significant. The SSIA instead opted for a strategy. If the CVFPP determined that fixing levees upstream would increase downstream flood stage, why would the proposed project be any different?

Mitigation Measures

Increases in flood risk associated with the project could be avoided or mitigated with some of the following measures:

- Increases in flood risk in the study area could be avoided by acquisition of agricultural easements or zoning restrictions, particularly on deep flood plains, to prevent development on deep floodplains.
- Increases in flood risk in the study area could be avoided, particularly in shallow floodplains, by instituting building codes requiring all new development to be constructed above the base flood elevation.
- Increases in downstream flood risk could be mitigated by modifying project design to maintain transitory storage in the study area or elsewhere.

3. **The DEIR/DEIS does not provide sufficient information for reviewers to evaluate the impacts of the proposed project.** Without this information, reviewers and decision makers may not be able to accurately evaluate the adequacy of the DEIR/DEIS or the value of the project.

Information on basic hydraulic studies is also not available in the DEIR/DEIS or any of the documents properly referenced in the document. The document does not provide a map showing the level of protection that will be provided by the project. Project proponents must have this information. The floodplain inundation maps (plates 2-14 thru 2-19) cite Peterson Brustad, 2012 as the source, but no description or reference for this document is provided in the entire DEIR/DEIS. These documents and plates 2-14 thru 2-19 divide the various reaches into six different segments for the purpose of the underlying hydraulic analysis, but these segments are different than the 37 different study reaches. These hydraulic analyses are foundational to the flood performance and design of the project, but without proper references and documents, it is impossible to align the six "segments" which formed the basis of the underlying hydraulic analysis with the 39 "study reaches" described in the DEIR/DEIS. Aside from Plates, 2-14 thru 2-19, the following statement from page 1-9 of the Executive Summary is the only reference in the DEIR/DEIS to the segments:

"Note: Certain planning and engineering studies for the project make reference to segments within the planning area under which the reaches above are grouped. These segment designations do not have substantial bearing on the alternatives descriptions,

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environmental setting, or determination of effects and therefore are not used in this document for simplicity.”

This statement is incorrect. The underlying hydraulic analysis reported using the segment system is foundational to alternative formulation and justification. It is impossible to evaluate which levee segments must be fixed to protect Yuba City from deep flooding. Project proponents at SBFCA did not provide the proper reference documents or citations even after we made a special request before the end of the comment period.

Mitigation

This deficiency could be remedied by reissuing the DEIR/DEIS to provide information addressing the deficiencies described above including the provision of specific maps delineating the parcels that will be removed from floodplain and susceptible to urban development as a result of the project.

4. **The DEIR/DEIS analysis regarding compliance with Executive Order 11988 regarding floodplain management is flawed.** The project appears to be in violation of Executive Order 1198, which is attached. The DEIR/DEIS explains that:

“EO 11988 requires a Federal agency, when taking an action, to avoid short and long-term adverse effects associated with the occupancy and modification of a floodplain, and it must avoid direct and indirect support of floodplain development whenever there is a reasonable and feasible alternative.”

Section 4.1.2.1 of the DEIR/DEIS argues incorrectly that there are not reasonable or feasible alternatives. As discussed in more detail below the DEIR/DEIS did not sufficiently evaluate other alternative designs that could “avoid direct or indirect support of floodplain development.

The project entails modification of a federal levee and will require a 408 permit from the United States Army Corps of Engineers (USACE) under the Rivers and Harbors Act of 1908. It is not realistic to assume that USACE will disregard EO 11988. As a result, the project proponents decision to screen out other alternatives will risk delaying implementation of badly needed flood protection improvements for the project area. Flood protection for existing communities and structures in the project area could be expedited by implementing the mitigation measures identified in sections 1 and 2 above or by considering a broader range of alternatives.

5. **The DEIR/DEIS does not adequately consider a reasonable range of alternatives that could better protect public safety and the environment as required by CEQA.** All three project alternatives evaluated in the DEIR/DEIS are limited to modifying a federal levee along its existing alignment. The DEIR/DEIS does not adequately consider other alternatives such as levee setbacks, ring levees, flood bypasses, reservoir reoperation, or elevating vulnerable

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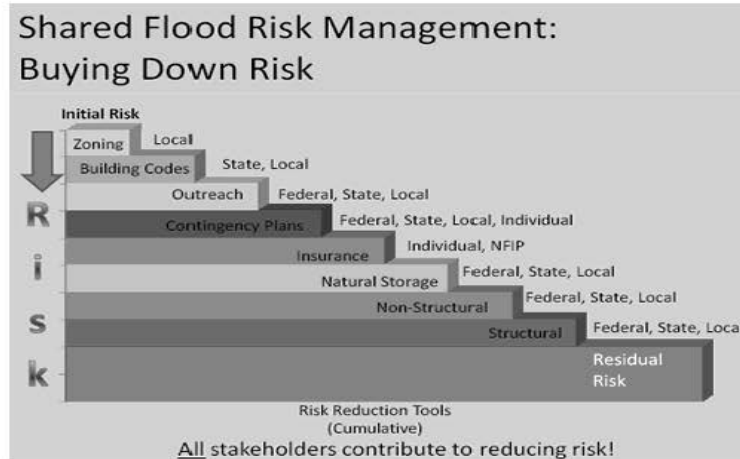
structures. The DEIR/DEIS fails to adequately consider several critical and viable alternatives, including those identified in the initial project scoping period (Attachment B).

Section 2.7 describes the screening process that proponents used to screen-out various flood management approaches such as set-back and ring levees, but the assumptions and information utilized in this screening process are flawed, and more importantly, the screening process did not consider any hybrid alternatives comprised of a broad toolbox of approaches. Failure to consider an alternative that considered more than one approach led the proponents to discard approaches simply because one single approach was not sufficient to provide protection in the view of the proponent. It is worth noting that the recommended alternative uses a hybrid approach that relies on both seepage berms and slurry walls. Would it have been reasonable to discount one of these two approaches simply because anyone of these two approaches by themselves would have been insufficient?

The underlying hydrology and hydraulic analysis that this screening analysis is based upon is not referenced in the DEIR/DEIS making it difficult to evaluate the performance of alternatives screened from the analysis. From discussions with SBFCA staff during the comment period, we learned that screening analysis was based in part on analysis conducted in 2010 as part of the "study area plan" prepared by Peterson Brustad, but this analysis was not presented as part of the DEIR/DEIS, was not referenced in the DEIR/DEIS, and is not publicly available. We were only able to obtain a copy of this document two days before the end of the comment period and are currently reviewing it. It does provide some overly simplistic analysis of ring levees, J levees, and a flood bypass; but it does not consider other flood management approaches such as zoning, building codes, and flood insurance. Moreover, it appears that the underlying hydraulic analysis did not assume the existing TRLA setback on the left bank or potential levee setbacks downstream in combination with the approaches screened. Due to the lack hydraulic information, we were unable to evaluate the validity of the screening analysis. We look forward to learning more about this analysis in future discussions with the project proponent.

Many of the problems with the project and DEIR/DEIS could be avoided or mitigated through a more comprehensive flood risk management approach designed to advance a more sustainable flood management system. As illustrated in the following figure and described in the attached paper by Major General Don Riley (Attachment C), a previous director of Civil Works for the Army Corps of Engineers, levees are only small part of what is necessary to protect communities from flooding. Failure to consider a hybrid approach results in a defective project and DEIR/DEIS.

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We therefore request that the DEIR/DEIS and the underlying project description be substantially revised to identify and consider a comprehensive alternative that utilizes multiple approaches for improving flood protection for the project area. A hybrid approach could better reduce long-term liabilities for the state and federal government, reduce long-term flood risk for communities in the project area, improve long-term water supply reliability for the State Water Project, improve water quality, and enhance fish and wildlife habitat. Our organizations would support a hybrid alternative that would involve fixing levees in place adjacent to urban areas, setting-back some reaches of the levee to attenuate flood flows, constructing low ring levees and drainage channels to route flood waters away from urban areas to the western and southern portions of the study area, and elevating structures in rural areas that would still be vulnerable to shallow flooding under this hybrid approach.

Levee Setbacks

The screening process uses the following three arguments to remove setback levees from further consideration: 1) incompatibility with existing land uses, 2) environmental impacts of levee setbacks, and 3) relative cost of levee setbacks (FRWLP 2.7.2.1). We provide detailed comments on these three lines of reasoning below:

- The document cites poor compatibility with land use due to the potential for conversion of existing agricultural, commercial, and residential land, and for subjecting additional lands to flooding as a reason for screening out setback levees as a feasible alternative. New floodplain associated with setback levees is not *de facto* removed from agricultural uses. To the contrary, the majority of the land currently in the floodway is farmed, and

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much of it is in perennial tree crops. Even if setback levees removed land from agricultural production, setbacks should be considered for the DEIR/DEIS public safety benefits. According to an analysis conducted for SBFCA and the USACE, levee setbacks in or near the project area would substantially reduce flood stage and velocity, and presumably the risk of levee failure. Lastly, this consideration fails to consider the value to water quality and fish and wildlife that would result from setback levees, effectively ignoring significant environmental benefits of levee setbacks.

- The document cites concerns for environmental effects on land use, mineral resources, transportation, air quality, noise, and other resources as a reason for screening out setback levees as a feasible alternative. Effects on mineral resources and transportation are unsubstantiated in the document, and seem very unlikely. Effects on air quality, noise and "other resources" would be short term in nature, and not likely to be much greater than those associated with the recommended alternative, or the growth facilitated by the alternative. In the long-term, setback levees would improve air quality, and would reduce noise impacts on wildlife and recreational river users by increasing the natural buffer between the river and surrounding sources of noise pollution. The long-term benefits to public safety, river health, fish and wildlife habitat, and recreation greatly outweigh any immediate, short-term impacts associated with the construction of setback levees.
- The document cites concerns for the cost of setback levees relative to other alternatives considered. No supporting information is provided in the document regarding cost estimates, how they were calculated, or if they were quantified at all. However, in a previous document titled Pre-Design Formulation Report on the FRWLP, segments 1 to 7, the costs of using setback levees is compared to that of *in situ* levee improvements (included in Appendix B). The criteria for consideration of setback levees as an alternative was a cost ratio of less than 5:1 (setback levee: *in situ*). One scenario for the considered segment was found to be at a ratio of 3:1. While other setback alternatives had a higher ratio, it appears that the cost of levee setback was exaggerated due to unrealistically high land cost estimates. The analysis assumes land costs of \$25,000 per acre, but the costs of agricultural land is significantly less.

Setback levees are not suitable options in all circumstances, but setback levees in selected locations require further consideration as a project alternative, or as additional measures in the considered alternatives. Many segments of the project reach are strong candidates for setback levees, and ultimately, the recommended alternative should not be without setback levees as a central part of the overall project. Inclusion of setback levees would be complimentary to other Feather River projects such as the planned floodplain augmentation at the Oroville Wildlife Area, and the Feather River Setback Levee at Star Bend, and could together create unprecedented benefits for the watershed through improvements in public safety, fish and wildlife habitat, and recreational opportunities.

These benefits of setback levees and other alternatives become especially important in light of the predicted effects of climate change for the region as discussed below. Peak flows are expected to occur earlier, rain-on-snow events and the DEIR/DEIS associated extreme flooding are expected to occur more frequently, and more precipitation is expected to fall as

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rain instead of snow through the winter. These factors will complicate the management of reservoirs for multiple benefits and decrease the predictability of high flow releases, making the adaptive capability of the greater floodplain area associated with setback levees increasingly valuable in the future.

Ring Levees

Ring levees and all variations of the ring levee concept are excluded on the basis that they fail to protect the entire reclamation district from 200 year flood protection, but based on discussion with SBFCA staff it is our understanding that the recommended alternative does not provide 200 year protection for the entire area. The following language from table 2-21 explains why ring levees were excluded from further consideration:

“Fail; ring levee(s) may achieve 200-year protection for the area within the ring (or areas within multiple rings) but would not address the project objective to reduce flood risk for the entire planning area. The vast majority of the planning area would remain at current or heightened risk levels, especially agricultural communities, commodities, and infrastructure.”

This preceding statement is problematic for a number of reasons. It is based on a misunderstanding of the definition of flood risk and neglects to consider the role that other risk management measures could play to reduce flood risk for the entire study area in combination with a ring levee approach. Risk is quantified by multiplying the probability of flooding by the consequence of flooding. By definition, ring levee that protect urban areas reduce risk for the entire area by reducing the probability of flooding in urban areas where the consequences of flooding would be greatest for the entire study area. Furthermore, ring levees in combination with other measures could reduce risk for areas outside of the ring levees. For example, elevating structures in shallow agricultural floodplains or providing flood insurance for less protected areas would also reduce flood risk.

Ring levees protect urban areas by routing flood waters to other locations. There are many potential variations of ring levees or cross levees in combination with drainage swales that could route flood waters away from urban areas in the service area. For example a low cross levee combined with a drainage swale created immediately north of Yuba City could route flood waters around Yuba City and into the low lying western and southern areas of the study area. Although this approach would not provide the same level of flood protection for the rural areas north of Yuba City, it would also not require routing all floodwaters downstream toward Sacramento for the purpose of protecting Yuba City. As a result, it would not transfer flood risk from upstream areas to downstream areas, a problem discussed in section 2.

J Levees

A J-levee is a special hybrid of repair-in-place of existing levees and ring levees, with the “J” referring to the shape of the levee in planform. Rather than entirely encircling a limited area like a ring levee, a J-levee would combine repair-in-place of existing levees connected with a partial ring levee (forming the “J” shape). Table 2-22 eliminates a J levee from further consideration for the following reason:

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"Uncertain; a J-levee may need further evaluation to determine ability to meet the project objective to reduce flood risk for the entire planning area."

If more evaluation is necessary to determine if a J-levee could meet the project purpose, why was it excluded from further evaluation?

Reservoir Reoperation and Flood Bypasses

Reservoir reoperation and flood bypasses were excluded because they were outside of the jurisdiction of the project proponent. This may be a reason for the project proponent to exclude this measure from further consideration, but if the state and federal government is paying for 80% or more of the project, is not a legitimate reason for them to exclude it from further analysis.

Raising Building Pads

Raising building pads was excluded from further analysis with the following language from table 2-26:

"Fail; raising building pads would not meet the objective to reduce flood risk for the entire planning area because approximately 30,000 existing structures would need to be modified which is not reasonably feasible and because tens of thousands of acres of agricultural lands would remain at risk."

The reasoning from the preceding statement is fundamentally flawed and no data is presented to show that it is actually cost prohibitive. Raising building pads to one foot above BFE would in fact substantially reduce flood risk, if not eliminate it for all structures. No data is presented on exactly how many structures exist in the planning area and how many would need to be elevated. Most historic structures are elevated above ground level because early residents knew that doing so was prudent. It may not be feasible for the entire planning area, but it could play a substantial risk reduction role in large areas of the planning area. Lastly, while it is true that raising building pads would not reduce probability of flooding for agricultural lands, but the consequences of temporary flooding on agricultural lands is relatively low compared to urban flooding in other parts of the state. The state and federal taxpayers are not inclined to spend millions or billions of dollars to protect agricultural lands from very infrequent flood events.

6. **The DEIR/DEIS fails to advance a multi-benefit approach and could preclude future multi-benefit projects along the Feather River, which would be inconsistent with the Central Valley Flood Protection Plan.** We are particularly concerned that building the proposed project would foreclose any opportunities to restore floodplain habitat in the Feather River floodway. Floodplain restoration is essential to restoring habitat for endangered salmon and other fish and wildlife species. Protection and restoration of endangered salmon runs is necessary to comply with the state and federal Endangered Species Act. Failure to restore salmon populations could severely affect the State Water Project, which provides water to tens of millions of Californians. Once the project is built, it will be difficult if not impossible to obtain permits for floodplain restoration projects that locally increase flood elevations

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even slightly. We have no assurances that the project proponent or other local entities would not litigate to stop any project with even minor hydraulic effects.

At the direction of the state legislature, the Department of Water Resources spent four years and large amounts of money preparing the Central Valley Flood Protection Plan (CVFPP) to meet a variety of flood management and ecological objectives enumerated in section 9616 of the California water code (attachment C). The plan includes a number of objectives including promoting ecosystem function and multiple benefit projects. The Central Valley Flood Protection Board amended and adopted with CVFPP with a board resolution that requires development of multi-benefit projects. Resolved 11(m) states:

“Wherever feasible, improvements to the SPFC should be implemented in accordance with CWC § 9616 and provide for multiple benefits through projects designed to improve public safety while achieving other benefits, such as restoration of ecosystem functions and habitats within the flood management system.”

By the DEIR/DEIS own acknowledgement, the project proponents have made no attempt to design the project to meet multiple-benefits or restore ecosystem function. The project proponents expect to obtain well over \$100 million in state funds to construct the project, but it is not clear why the state should support the project without assurances that the project proponents will support multiple benefit projects along the Feather River once the DEIR/DEIS project is completed.

7. **The proposed project will continue levee district policy of blocking public access to the Feather River corridor, a public trust resource.** The DEIR/DEIS recognizes that there is demand for increased recreational and public access opportunities on the Feather River within the project area, but existing practices by the SBFCA or its member agencies prevent the public from accessing the Feather River along public right-of-ways.

Access to the Feather River from the dry side of the levee is obstructed by the levee, a man-made barrier predating this project but related to it. It is illegal to climb the levee other than at ramps, because climbing the unprotected bank of the levee may cause erosion and damage the levee. This obstruction of access to the river and its banks is mitigated by the presence of ramps providing a means of crossing between the lands on the wet side of the levee and lands on the dry side of the levee. These ramps are currently obstructed by gates which are almost always maintained locked closed by levee maintenance organizations (Department of Water Resources (DWR), Levee District Number One of Sutter County (LD1), Levee District Number Nine of Sutter County (LD9)). Each of these entities is a California public agency. DWR is an “authorizing stakeholder” in the project, and LD1 and LD9 are constituent parties to the Sutter Butte Flood Control Agency joint powers agreement. The levee, gates and the practices of maintaining the gates locked closed are pre-existing facts which must be considered a cumulative with the effects of this project. The pre-existing practice of keeping the gates locked closed is a good indicator that the levee maintenance organizations will keep the gates locked closed after the project is completed, which also must be considered as a cumulative effect of the project.

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American Rivers

Levee District 1 in Yuba City area has consistently locked gates and restricted access to the river despite complaints from the public. Roads that connect Highway 99 and other main arteries to the river were authorized by the Sutter County Board of Supervisors as public thoroughfares to the river in the mid-1800s. These roads are maintained by the County. In the last ten years, farmers have installed "No Trespassing" signs, and in some cases, gates or other obstacles that discourage public access to these public roads. LD 1 has permanently locked a gate across a public road at Star Bend. The County Public Works Department has been reluctant to remedy the situation by demanding that access to the public be kept open.

The public has the right to access and use the river and the adjacent dry land below the high water mark, and state and local agencies have an obligation to avoid impinging on this right. We are concerned that FRWLP will decrease options for public access through removal of levee ramps or maintaining the practices of maintaining locked gates. The DEIR/DEIS does not adequately address impacts to recreation and public river access. The DEIR/DEIS provides no assurances that SBFCA will seek commitment from its member agencies to improve upon past policies and practices, and allow public access to the river and floodplain to the maximum extent feasible. More detailed comments on recreation and public access were provided by Francis E. Coates, which we incorporate in these comments by reference.

In addition to the indirect consequences of this project on access to public recreational resources, the construction of new flood facilities could directly impede public use. The DEIR/DEIS states in Chapter 3.14 that "Seepage and stability berm installation in Alternative 3 could affect the long-term access to portions of the Oroville Wildlife Area, O'Connor Lakes Unit and Nelson Slough Unites of the Feather River Wildlife Area and the Bobelaine Audubon Sanctuary. The new topography on the approach side of the these facilities may requires the construction of new roadway and trail access, utilities, parking, staging and other facility or infrastructure improvements. With the implementation of the environmental commitment requiring reconstruction of affected formal park facilities and preservation of boat launch access during and following construction activities (described in Chapter 2, Alternatives), this effect would be less than significant. No mitigation is required." We were unable to find any such "environmental commitment" to reconstruct formal park facilities and preserve boat launch access in the referenced section. Moreover, even if there were such a commitment made, there is little assurance that the level of access presently available to the public through informal access and by means of other facilities beyond "formal park facilities" and boat launches would not be impaired by this project.

8. The project does not adequately evaluate performance under climate change or future hydrologic changes associated with a warming climate.

The final engineers report for the Sutter Butte Flood Control Agency by Parsons Brinkerhoff (July 14, 2010) provides the following description of changing hydraulic conditions, but the

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American Rivers

DEIR/DEIS does not provide an analysis of how the project will perform under anticipated hydrologic conditions.

“California weather is changing, perhaps as a result of global climate change. More precipitation is falling in the mountains as rain, and less as snow pack. This change will increase the stress on the region’s flood control system.”

Despite this acknowledgement, the project does not provide any analysis of how the project will perform under a changing climate and does not appear to utilize climate change hydraulics and hydrology to evaluate project alternatives. An analysis that considered the high probability of climate change would very likely reach different conclusions regarding the merits of various flood management approaches, all of which were screened-out of the alternatives analysis.

These benefits of setback levees and other alternatives become especially important in light of the predicted effects of climate change for the region. Peak flows are expected to occur earlier, rain-on-snow events and the DEIR/DEIS associated extreme flooding are expected to occur more frequently, and more precipitation is expected to fall as rain instead of snow through the winter. These factors will complicate the management of reservoirs for multiple benefits and decrease the predictability of high flow releases, making the adaptive capability of the greater floodplain area associated with setback levees increasingly valuable in the future.

9. The DEIR/DEIS does not evaluate the performance of the project alternatives in combination with existing and foreseeable projects that have or will expand flood carrying capacity in the lower Feather River, such as an expanded bypass along the lower Feather River and Sutter Bypass.

The study plan hydraulic analysis (Peterson Brustad, 2010), which purportedly forms the basis for the underlying alternatives analysis, including the alternatives screening analysis described in section 5 above, does not include the TRLA set-back project as part of the base case. The TRLA set-back project reduces flood stage elevations by six inches, which is very significant. Furthermore, the hydraulic analysis used to screen-out several alternatives does not consider the synergistic effects of downstream levee setbacks that are planned for in the CVFPP. A July 2011 analysis of Lower Feather River set-back levees found that a setback downstream of Laurel Road could lower flood stage elevations in the lower Feather River by one to two feet in the vicinity of Yuba City. This is very significant, especially since inundation depths in most of Yuba City under several breach scenarios (depicted in plates 2-14 to 2-19) are less than two feet. How would various scenarios that were screened-out using other hydraulic assumptions (Peterson Brustad, 2010) such as levee set-backs, ring levees, and raised build pads perform differently if the hydraulic analysis had assumed a major levee setback downstream of Laurel Road? To provide a credible alternative analysis and to qualify for state funding, the project proponents should reconsider how various alternative approaches would perform assuming a major levee set-back in the lower Feather River as proposed in the CVFPP.

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10. The project does not evaluate the cumulative effects of the proposed project and associated flood control reservoirs on floodplain habitats and the fish and wildlife resources of the Feather River and its tributaries.

The system of dams, levees, canals on the Feather River and the urban and agricultural they support in the study area have contributed to the precipitous decline of fish and wildlife resources. Spring-run salmon on the Feather River are endangered and fall-run salmon are greatly reduced. The decline of these fisheries has imposed severe hardship on commercial fisherman and deprived recreational anglers of a value past time and food source. Salmon and other fisheries like the Sacramento Splittail are dependent on inundated floodplain habitat for reproduction or nursery habitat. Floodplains are also a source of primary and secondary productivity for a number of other fish and wildlife species.

Oroville Dam, project levees, particularly in the lower portion of the study reach, agriculture in the flood way, historical dredging activities, and local berms constructed to reduce the frequency of agricultural land in the floodway have all contributed to the decline of floodplain habitat, and by extension, fish and wildlife dependent on those habitats. Modern perennial agriculture (orchard) in the floodway is only possible because of the regulation of the Feather River by Oroville Dam and the state water project, which has further reduced the area and frequency of inundated floodplain habitat.

The same can be said for terrestrial and avian species, particularly migratory birds. The river floodplains historically provided wetland habitat for millions for ducks, geese, swans, and other waterfowl that evolved to over-winter in the Central Valley, particularly in the Sacramento Valley. Those wetlands were reduced to below 5% of the DEIR/DEIS historical extent due to the construction of levees and other land use changes. An important recreational resource and industry is now dependent on artificially flooded lands and subject to the uncertainties of water supply, electricity prices, farm practices and government appropriations to sustain them.

There is clear scientific evidence documented in several peer reviewed scientific studies that restoration of floodplain habitat would substantially improve fisheries populations. Some of these fish populations are endangered, which may require extraordinary measures by the state water project, to release substantially more water during the spring for the purpose of increasing the frequency of inundated floodplain habitat. Alternatively, floodplain habitat could be restored with considerably less water by reconnecting floodplains and secondary channels in the Feather River floodway that are currently blocked by small levees or berms or by increasing the elevation of the channel thalweg where it was previously dredged. These manipulations in the floodplain, however, would by design increase water surface elevations at least for moderate flood events. As discussed in section six above, we are concerned that the project proponents or other parties will litigate to prevent future floodplain restoration once the DEIR/DEIS project has been built on the technical grounds that such floodplain restoration would increase water surface elevations during floods. Although, it is not necessarily true that floodplain restoration would increase water surface elevations during large flood events, opponents to such restoration could preclude it indefinitely with legal arguments that it would compromise public safety.

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Comments to the DEIR/DEIS
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The proposed project to build the levee in place does not create any additional flood conveyance capacity and therefore any future efforts that could conceivably decrease flood conveyance would be viewed by local, state, and federal flood management agencies as an impact to public safety that must be mitigated. As discussed above, the project would facilitate additional urban development in the levee "protected" floodplain increasing the public safety imperative and thus aggravating the perceived, if not real, conflict between public safety and fisheries restoration. The very best way to protect public safety, particularly against the increasing storms that climate change will bring, is to give the river more room to safely convey flood flows. Giving the river more room also allows for other uses of the floodplain such as recreation, trails, wetlands that filter and cleanse water, and fish and wildlife habitat.

Attachment B to Letter O3



July 5, 2011
Feather River West Levee Project
American Rivers Comments

July 5, 2011

Ingrid Norgaard, Project Manager
Sutter Butte Flood Control Agency
c/o ICF International
630 K Street, Suite 400
Sacramento, CA 95814

Dear Ms. Norgaard,

American Rivers, in its commitment to river conservation, public safety, and sustainable flood management, would like to offer comments with respect to the proposed Feather River West Levee Project (FRWLP). It is American Rivers' concern that the project, as currently proposed, fails to incorporate long-term, sustainable flood management strategies, and places both human and natural communities at increased risk of future catastrophic flooding.

The project's EIR/EIS should examine a broad range of issues and mitigation alternatives in order to formulate a more comprehensive and sustainable approach to flood management in the Sutter/Butte region, as described below.

Growth Inducing Impacts

The report should consider whether providing 200-year flood protection from Thermalito Afterbay to Yuba City north would increase, rather than decrease, flood risk by incentivizing development in these flood-prone areas. Flood risk, as defined by the state of California, equals the probability of flooding multiplied by the consequences of a flood. Although the project will reduce the *probability* of local flooding, the *consequences* of eventual flooding in a heavily developed community would be much more severe. Facilitating development efforts by cities, counties, and property owners in flood-prone regions may substantially increase flood risk over the long term.

Downstream Flood Impacts

In its emphasis on structural levee improvements, the proposed project could route more floodwater downstream to urban communities. By reducing the probability of levee failure in the Yuba City area during a large flood event, the project would necessarily increase the probability that flows would be routed downstream, and this would increase the risk of catastrophic flooding in Sacramento and West Sacramento. The report should consider and select alternative improvement measures that would avoid or mitigate these impacts.

Impacts Under Climate Change

The project should consider whether the proposed levee improvements will actually provide 100-year and 200-year protection under projected future flows assuming climate change.

BERKELEY OFFICE • 2150 ALLSTON WAY SUITE 320 • BERKELEY, CALIFORNIA 94704 1
(510)-809-8010 • www.americanrivers.org

July 5, 2011
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Evaluate a Broader Range of Alternatives

In order to better advance the state and federal flood management goals, the EIR/EIS must evaluate a broader range of alternatives including:

1. **Levee Setbacks:** Evaluate the potential benefits of levee setbacks, including reduced operations and maintenance costs, improvements to local flood protection in the face of climate change, and benefits for fisheries and wildlife habitat.
2. **Ring Levees and Building Modifications:** Examine the potential that ring levees offer for protecting the existing communities of Gridley, West Gridley, Biggs, and Yuba City as an alternative to the proposed project. Elevate buildings outside the ring levees to protect against flooding.
3. **Flood Bypass:** Evaluate the opportunity to reduce peak flows during extreme flood events by rerouting floodwaters into the Butte Basin through a new flood bypass. Such a bypass could divert water out of Thermalito Afterbay and the Feather River and into the Cherokee Canal.
4. **Oroville Reservoir:** Consider opportunities for reducing extreme flood events by reoperating the Oroville reservoir either to expand the flood reservation or improve real time operations during flood events.
5. **Oroville Wildlife Area Levee Modification:** Explore opportunities for reducing peak flood flows through planned modifications to levees adjacent to the Oroville Wildlife Area that would increase flooding of the OWA. Modifying levees along the OWA is required by Article A106 Riparian and Floodplain Improvement Program in the Settlement Agreement for the Relicensing of the Oroville Facilities, FERC Project 2100, executed by the Department of Water Resources and 52 other parties in March 2006.

The costs and benefits of all alternatives should be evaluated in light of the life cycle costs of maintaining and operating the project.

By examining the aforementioned potential project impacts and considering additional mitigation alternatives, the FRWLP can adopt a sustainable flood management vision and offer long-term public safety as well as ecological benefits to the communities of the Sutter/Butte region.

We hope that, in compiling the EIR/EIS and in moving forward with the project, the Sutter Butte Flood Control Agency and its collaborators will consider our comments and be part of the movement towards a safer, more sustainable future for California's Central Valley.

Respectfully,



John Cain,
Director of Conservation
California Flood Management



Megan Randall,
California Flood Management Fellow

Attachment C to Letter O3

2/26/2008

IMPROVING PUBLIC SAFETY – FROM FEDERAL PROTECTION TO SHARED RISK REDUCTION

Major General Don Riley
US Army Corps of Engineers

Responsibility for flood risk management in the United States is a shared responsibility between multiple Federal, State, and local government agencies with a complex set of programs and authorities. Nationally, both the US Army Corps of Engineers (USACE) and the Federal Emergency Management Agency (FEMA) have programs to assist states and communities in reducing flood damages and promoting sound flood risk management. The authority to determine how land is used in floodplains and to enforce flood-wise requirements is entirely the responsibility of state and local government. Floodplain management choices made by state and local officials, in turn, impact the effectiveness of federal programs to mitigate flood risk and the performance of federal flood damage reduction infrastructure. One key challenge is to ensure that as the public and government leaders make flood risk management decisions, they integrate environmental, social, and economic factors and consider all available tools to improve public safety. Importantly, we must ensure the public is educated both as to the risks they face and actions they can take to reduce their risks. Because of this complex arrangement of responsibilities, only a life-cycle, comprehensive and collaborative systems approach will enable communities to sustain an effective reduction of risks from flooding.

Where we are now – “The government will protect us”

Individual agency processes and procedures typically have provided the venue for planning and implementation of flood damage reduction measures. The present process to engage the Corps of Engineers is on a project by project basis, even though the Corps has made advances in incorporating collaborative approaches and assessing alternatives in a watershed context. Traditionally, the Corps focuses on reducing flood damages by managing floods that cause damage largely by decreasing the probability of flooding. The Corps develops alternatives based on reducing known potential flood damages, with minimal consideration of future land use or other social effects. Additionally, the Corps infrequently assesses options to reduce consequences should a failure occur. Whether communities strive for 1% level of protection or greater, the present process drives decisions based on reducing the potential for failure or *reducing flood damages* and does not incorporate an assessment of localized risks and consequences. Figure 1 is an example of the present paradigm – a system based on an appropriate “level of protection”, which provides credence to the notion that “the government is responsible” and “therefore, we are protected.” Complicating the matter, many prudent cost share sponsors seek to limit their costs; which drives some to seek to achieve only a level of protection whereby community members will not be required to purchase flood insurance.

2/26/2008

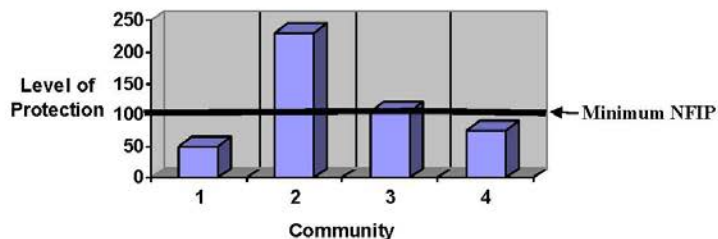


Figure 1 – Selecting Level of Protection

Where we need to be – “We are all responsible for our safety”

To significantly improve public safety, we are pursuing a level of public education at which our fellow citizens are so well informed they are able to assume responsibility for decisions they make about where and how they want to live and work. We then can engage in a comprehensive and multi-government and private citizen collaborative process to *managing flood risk* to achieve levels of tolerable risk. The Corps is expanding our traditional approach to focus on the most effective combination of tools available that citizens may use to lower or “buy down” their flood risk (as illustrated in Figure 2). We will consider not only reducing the probability of flooding, but also reducing the consequences should a flood occur. A multitude of options and tools becomes more evident through the process of assessing the consequences of a flood. Furthermore, the decision on which tools to implement involves all stakeholders. For example, the Corps can help reduce risk by levee construction. Whereas in a coordinated but independent action, local government can further reduce flood risk by implementing flood plain management actions such as evacuation plans, zoning ordinances, and public outreach.

This cannot be achieved without a new paradigm of joint partnerships in a comprehensive approach of public education and flood risk management. For instance, the insurance industry has a similar goal of assessing hazards and therefore, there exists an opportunity for the federal government and insurance industry to leverage mutual efforts, such as in the areas of research and development, implementation of assessment tools, and increase of public and policy-makers awareness.

2/26/2008

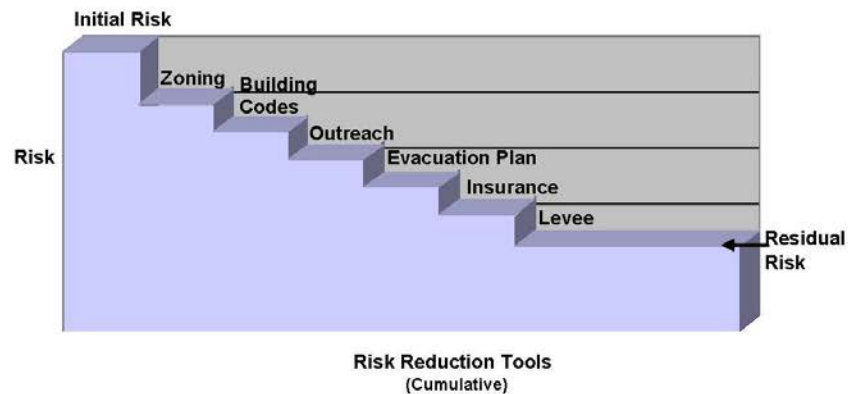


Figure 2 - FLOOD RISK MANAGEMENT: ALL STAKEHOLDERS CONTRIBUTE TO REDUCING RISK

What we are doing now

In May 2006, USACE established the National Flood Risk Management Program (NFRMP) to take the first step of bringing together other federal agencies, state and local governments and agencies, and the private sector to develop and implement a unified national flood risk management strategy that eliminates conflicts between different flood risk management programs and takes advantage of all opportunities for collaboration. Additionally, we are seeking partnerships with those that best understand risk, such as banking and insurance industries to share data and risk model development. We also wish to collaborate more closely with business councils and developers so they understand local flood risks, and can assist us in public education campaigns.

An integral part of the NFRMP is the Interagency Flood Risk Management Committee (IFRMC), with core leadership from USACE, FEMA, Association of State Flood Plain Managers (ASFPM), and the National Association of Flood and Stormwater Management Agencies (NAFSMA). This committee will be expanded to include other stakeholder groups, such as resource agencies. Through this process, organizational leadership should use or change, when practicable, existing policies and programs to transition into a comprehensive and shared process of lowering or “buying down” flood risks. As the transition occurs, the IFRMC should identify and recommend necessary administrative, policy, and legislative changes for complete implementation of the collaborative risk-informed decision process for managing flood risks.

Letter O4—American Rivers Trust, et al., John Cain, et al., March 15, 2013

Letter O4

American Rivers ♦ American Whitewater ♦ Audubon California
California Trout ♦ California Waterfowl Association
Defenders of Wildlife ♦ Friends of the River
Planning and Conservation League ♦ Sacramento River Preservation Trust
South Yuba River Citizens League ♦ Trout Unlimited

March 15, 2013

Michael Inamine, Executive Director
Sutter Butte Flood Control Agency
1227 Bridge Street, Suite C
Yuba City, CA 95991

RE: February 15, 2013 Comment Letter on Feather River West Levee Project

Dear Mr. Inamine:

On behalf of the organizations that submitted a comment letter on the Draft Environmental Impact Report/Statement (DEIR/DEIS) for the Feather River West Levee Project (FRWLP), we appreciate the time that you and the Sutter Butte Flood Control Agency (SBFCA) staff have taken to meet with representatives from the NGO community and provide more information about the project and responded to our comment letter and to the more detailed comments provided by American Rivers (the comment letter's Attachment A).

Based on the information provided in those meetings and our related discussions, the nature of our concerns (and the concerns expressed by American Rivers in its more detailed comment letter) about the project has changed, and this letter is intended to clarify those changes.

- O4-A**
1. Growth
We have no additional comments on this topic. We look forward to further discussion and response to this comment.

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O4-B	<p>2. <u>Risks to Downstream Communities</u></p> <p>Our February 15 letter expressed concern that the project may increase flood risk to local and downstream communities. First, this comment was based on the assumption that the project extends to the south as far as the Sutter Bypass. Through our conversations it is now clear that the FRWLP does not involve 200-year protection south of Yuba City. Finally, we understand that the FRWLP is not a levee improvement project; the project partially rehabilitates the levee in order to restore protection from flooding for residents of Butte and Sutter Counties. It does not improve the levee to a standard above that which was assumed to exist before the development of new criteria for levee seepage. Before SBFCA implements any future project which may propose improvements downstream of Laurel Avenue, we request a briefing from SBFCA on the hydraulic impacts (if any) of such an improvement to better understand the issue.</p>
O4-C	<p>3. <u>Adequacy of Hydraulic Information</u></p> <p>Our February 15 comment letter stated that the DEIR/DEIS lacked sufficient hydraulic information to support the document's alternatives analysis. SBFCA staff has provided a copy of the Sutter Basin Area Plan as well as clarification on flood inundation maps. The FRWLP's purpose is now more clear (i.e., to partially rehabilitate the Feather River levee to protect residents from flooding). The alternatives were developed based on varying measures that could resolve deficiencies in the Feather River levee, rather than on the hydraulic analysis underlying the Engineer's Report that supports SBFCA's assessment district. There is no need for reissuance of the DEIR/DEIS based on this issue.</p>
O4-D	<p>4. <u>Executive Order 11988</u></p> <p>We have no additional comments on this topic. We look forward to further discussion and response to this comment.</p>
O4-E	<p>5. <u>Range of Alternatives</u></p> <p>Our February 15 comment letter expressed concerns about whether the DEIR considered a reasonable range of alternatives for protection of public safety. Our letter proposed that SBFCA consider alternatives such as house elevation, ring levees, etc. Based on our meetings, and a further review of screened-out alternatives not discussed in the EIR/EIS, it is now clear that the purpose of the project is reducing flood risk for the SBFCA area by addressing known deficiencies along the Feather River along its existing alignment and does not preclude additional measures to reduce flood risk or advance the objectives of the CVFPP. With this understanding, and after further review of the DEIR/DEIS, we now conclude that the range of alternatives analyzed in the document is adequate.</p>
O4-F	<p>6. <u>Multi-Benefit Approach</u></p> <p>We have no additional comments on this topic. We look forward to further discussion and response to this comment.</p>

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- O4-G** 7. Public Access
We have no additional comments on this topic. We look forward to further discussion and response to this comment.
- O4-H** 8. Climate Change
We have no additional comments on this topic. We look forward to further discussion and response to this comment.
- O4-I** 9. Project Performance with Other Foreseeable Projects
Our February 15 comment letter expressed concerns that the DEIR/DEIS did not evaluate the performance of alternatives in combination with existing and foreseeable expanded bypass projects. This comment was based on the assumption that the FRWLP extended south to the Sutter Bypass and that the proposed measures were highly sensitive to water surface elevation. Because the FRWLP will not preclude potential expanded bypasses along the lower Feather River and the Sutter Bypass, and with the knowledge that the geotechnical deficiencies are not highly sensitive to water surface elevation, this comment is no longer applicable.
- O4-J** 10. Cumulative Effects on Fish and Wildlife Resources
From our meetings, we now understand SBFCA's commitment to multi-benefit projects, including ecosystem restoration for fish and wildlife habitat, and the habitat that will be created as a direct result of the FRWLP at the Star Bend site. We further understand the importance of the FRWLP in providing the foundation for other restoration along the Feather River corridor. The SBFCA has agreed to enter into an MOU and work with the NGO community to advance a number of multi-benefit flood management projects, which when completed, will partially mitigate for the cumulative effects on fish and wildlife resources from construction and operation of facilities of the State Plan of Flood Control. Our organizations look forward to collaborating with SBFCA, its regional partners, state agencies, and the fish and wildlife agencies on these activities. We specifically offer technical assistance through our floodplain enhancement tool and implementation assistance in finding funding partners and programs.
- Conclusion
Our organizations appreciate both the additional information and clarifications SBFCA staff have offered as well as the commitments SBFCA has made as described in the MOU with American Rivers and SBFCA. We are therefore pleased to support SBFCA's Feather River West Levee Project as well as SBFCA's related efforts to enhance fish and wildlife habitat in the Feather River corridor. Our concerns as expressed in our February 15 letter have been addressed by SBFCA staff and the commitments provided by SBFCA in the MOU with American Rivers. As a result we agree that the DEIR/DEIS fulfills SBFCA's obligation under CEQA and NEPA to disclose and mitigate the project's anticipated impacts on the environment. Although some of our organizations never intended to legally challenge the DEIR/DEIS, we understand your need to clarify our intentions and therefore we hereby agree not to bring legal challenge based on CEQA or NEPA to the FRWLP as described in the December 2012 DEIR/DEIS subject to the

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provisions of the MOU. We applaud SBFCA's leadership role in garnering the resources necessary to advance flood management in the Sutter Basin and reiterate our desire to work constructively with SBFCA to expedite sustainable flood protection for the project area.

Sincerely,



John Cain
American Rivers



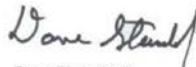
Curtis Knight
California Trout



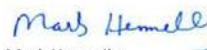
Diana Jacobs
Sacramento River Preservation Trust



Chandra Ferrari
Trout Unlimited



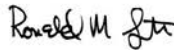
Dave Steindorf
American Whitewater



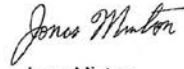
Mark Hennelly
California Waterfowl Association



Kim Delfino
Defenders of Wildlife



Ron Stork
Friends of the River



Jonas Minton
Planning and Conservation League



Caleb Dardick
South Yuba River Citizens League



Meghan Hertel
Audubon California

Version of March 15, 2013
Subject to CA Evidence Code Sec. 1152 and 1154

**Memorandum of Understanding
Regarding
Feather River Regional Flood Planning
and the
Environmental Impact Statement/Environmental Impact Report
for the
Feather River West Levee Project**

This Memorandum of Understanding (MOU) is by and among the Sutter Butte Flood Control Agency (SBFCA), American Rivers, and other parties who may later execute this MOU. American Rivers and any other non-governmental organizations who later sign this MOU shall be collectively referred to as the NGOs.

1. **Recitals.** This MOU is executed in light of the following facts:
 - 1.1. The Feather River West Levee Project (FRWLP) is a public safety project that directly impacts the lives and livelihoods of approximately 88,000 people in an economically disadvantaged community that has suffered numerous failures of the Feather River west levee, including the deadly and devastating 1955 flood.
 - 1.2. On February 15, 2013, thirteen non-governmental organizations (the Commentors) sent a comment letter to SBFCA and the U.S. Army Corps of Engineers on the public draft of the FRWLP environmental impact report/environmental impact statement (EIS/EIR).
 - 1.3. The comment letter raised questions about the adequacy of the EIS/EIR and also raised concerns that SBFCA's project does not advance environmental restoration or sufficiently reduce flood risk due to the largely "fix-in-place" philosophy of the FRWLP.
 - 1.4. SBFCA deliberately structured the FRWLP to, where possible, be contained within the current levee footprint to simplify regulatory approvals, result in the least amount of land acquisition, minimize environmental impacts, and provide the greatest flood damage reduction benefit at the least cost.
 - 1.5. The NGOs desire to work with SBFCA to advance a multi-benefit flood management program that advances the objectives of the CVFPP and serves as a model for flood management across the state and nation.
 - 1.6. SBFCA is interested in multi-benefit flood management projects where those projects are cost effective, fundable, and provide flood protection benefits to the Sutter Basin.
 - 1.7. SBFCA acknowledges that additional elements of a multi-objective approach for the Feather River watershed beyond the FRWLP, such as are described herein, would further reduce flood risk to the Sutter Basin, mitigate for past degradation of the Feather River ecosystem from facilities of the State Plan of Flood Control, and advance the objectives of the Central Valley Flood Protection Plan (CVFPP).

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Version of March 15, 2013
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- 1.8. The Feather River Regional Flood Management Plan (RFMP) is a partnership with Yuba County Water Agency, Three Rivers Levee Improvement Agency, Marysville Levee Commission, SBFCA, and other stakeholders with the charge of developing a broadly supported flood management plan for the Feather River region that aligns with the CVFPP and qualifies projects for future state and federal funding.
 - 1.9. There is a value to SBFCA to having a commitment from the Commentors that they will not challenge the FRWLP DEIR/DEIS and will support the FRWLP. There is a value to the Commentors from SBFCA making certain commitments regarding future ecosystem restoration projects. There is a value to all partners in active participation in the Feather River RFMP.
 - 1.10. A purpose of this MOU is to form a partnership between SBFCA and the NGOs to advance multi-benefit flood management projects that will benefit the communities along the Feather River
2. **Commitments of Sutter Butte Flood Control Agency.** By this MOU, SBFCA commits to make good faith efforts as follows.
- 2.1. **Commenting on Funding Guidelines.** SBFCA agrees to provide comments to any draft funding guidelines issued by the California Department of Water Resources for multi-objective projects which could be implemented by SBFCA in the Sutter Basin. Along with its other comments, SBFCA shall advocate for DWR to provide funding for multi-benefit projects that advance the objectives of the CVFPP including ecosystem restoration, improved public access, acquisition of easements from voluntary sellers to limit urban development of floodplains, and allow for the future expansion of floodways where necessary to protect public safety and where there is local support for the project. SBFCA's comments shall advocate that these elements be funded by DWR without an increased local-cost share.
 - 2.2. **Applications for Funding.** SBFCA agrees to seek funding for the list of projects listed in sections 2.2 and 2.4 (if applicable), only to the extent that SBFCA would not incur any net increase in costs associated with implementing such projects beyond the costs of the FRWLP. In doing so, SBFCA shall first coordinate, to the extent possible, with one or more representative NGOs to make the NGOs aware of SBFCA's efforts. In particular, SBFCA agrees to work with the NGOs to send a joint letter to the Department of Water Resources within 30 days of the effective date of this MOU renewing a request for funding for the projects identified in Sections 2.2.2. and 2.2.4. SBFCA shall seek additional funding for design, permitting, and implementation of elements identified in other subsections of sections 2.2 and 2.4 (if applicable) when it requests additional funds from DWR for subsequent phases of the FRWLP. Implementation of the following projects would help mitigate for years of alterations to the Feather River ecosystem from the State Plan of Flood Control facilities:

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- 2.2.1. In partnership with Three Rivers Levee Improvement Authority (TRLIA), enhancing and expanding restoration as part of a levee setback area on the east side of the Feather River to serve as habitat mitigation as a near-term component of the FRWLP and other projects, and as described in the preliminarily approved DWR FESSRO grant application signed by SBFCA;
- 2.2.2. Developing and implementing a multi-benefit project in the Oroville Wildlife Area to decrease water surface elevations in the Feather River, restore and improve floodplain habitat, improve flood operations, and reduce maintenance costs;
- 2.2.3. Creation of approximately 20 acres of riparian habitat by SBFCA in addition to the approximately 20 acres already created by Levee District #1;
- 2.2.4. A multi-benefit project at Abbott Lake that would provide levee borrow material to support levee reconstruction while modifying the floodplain surface to be beneficial to fish and wildlife;
- 2.2.5. The potential for a setback levee south of Laurel Avenue if there is a willing seller and local support and the project would help achieve 100-year food protection for the southern portion of the basin, all in order to create a mosaic of riparian floodplain habitat and agriculturally productive land that provides flood management benefits for the Sutter Basin, along with acquisition of any necessary easements or land necessary to implement a setback;
- 2.2.6. An environmental restoration project located at Nelson Slough as identified by the Lower Feather River Corridor Management Plan;
- 2.2.7. A State-funded program to purchase agricultural easements from willing-sellers to promote agriculture and to meet ecosystem restoration goals identified in the CVFPP and as a public safety strategy to manage long-term risk in the floodplain.
- 2.2.8. Such other projects which the NGOs identify to SBFCA as providing environmental restoration and flood management opportunities within SBFCA's area of jurisdiction and for which SBFCA concurs.
- 2.3. **Effect of FEMA Regulations on Agriculture.** SBFCA agrees to pursue appropriate changes in the National Flood Insurance Program that will promote agriculture continuing to thrive in protected floodplains recognizing that agriculture is often the best way to manage risk in the levee-protected floodplains of California's Central Valley.
- 2.4. **Public Access.** SBFCA does not operate and maintain levees and therefore does not promote or limit public access; nor does the FRWLP propose to alter existing

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access. SBFCA shall, through its participation in the Feather River RFMP, consider and work on public access issues.

- 2.5. **Coordination.** SBFCA agrees to meet with the NGOs on a regular basis to discuss implementation of the commitments made in this MOU.

3. **Commitments of the NGOs.** By this MOU, the NGOs commit to make good faith efforts as follows:

- 3.1. **Support for FRWLP.** The NGOs agree to promptly execute and send the letter attached to this MOU as Attachment 1 and to promptly facilitate execution of the letter by the Commentors. Subject to the limitations in Section 4.2, the NGOs further agree that: (i) the FRWLP is an indispensable, no-regrets part of any program to reduce flood risk in the SBFCA planning area, and (ii) they will support the FRWLP in the future, if asked by SBFCA, in any legislative, administrative, or judicial forum, including the Central Valley Flood Protection Board.

- 3.2. **Agreement to Not Sue.** The NGOs agree to not bring any action in state or federal court under any applicable State or Federal laws challenging the adoption of the EIS/EIR and, subject to the limitation in Section 4.2, implementation of the FRWLP.

- 3.3. **Support and Efforts to Locate Funding.** The NGOs agree to cooperate with SBFCA in seeking funding from the California Department of Water Resources (DWR) for the FRWLP and the projects identified under Section 2.2, provided that DWR or other government agencies elect to fund some of the projects contained in Section 2.2.. The NGOs further agree to investigate and pursue funding for the projects identified under Section 2.2 from sources other than the California Department of Water Resources.

- 3.4. **Coordination.** The NGOs agree to appoint representative(s) to meet with SBFCA on a regular basis to discuss implementation of the commitments made in this MOU.

4. **Miscellaneous Provisions.**

- 4.1. **Amendment.** This MOU may be amended only by further written instrument executed by all Parties. Other non-governmental organizations may execute this MOU upon approval by American Rivers and SBFCA, which approval shall not be unreasonably withheld.

- 4.2. **Dispute Resolution.** The Parties agree to use good faith efforts to resolve any disputes that may arise in the implementation of this MOU. If any party to this MOU believes that another party is not satisfying its obligations under the MOU, then the complaining party may provide written notice of the concern along with a request that the other party cure the concern within a reasonable and stated period of time. If, upon expiration of the period set for cure, the complaining party does

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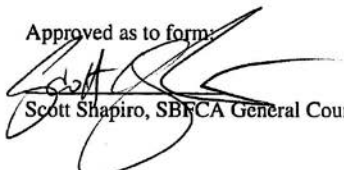
not believe that the concern has been cured, then the complaining party may provide written notice that it is withdrawing from the MOU, and the complaining party shall thereafter have no further obligations to comply with the provisions of this MOU.

- 4.3. **Counterparts.** This MOU may be executed in counterparts.
- 4.4. **Term.** Unless terminated earlier or extended longer pursuant to Section 4.1, this MOU shall terminate upon the adoption of the 2022 update of the CVFPP.
- 4.5. **Effective Date.** This MOU shall be effective upon the following two actions: (i) execution of this MOU by American Rivers and SBFCA, and (ii) execution of the letter contained in Attachment 1 by all Commentors before 8:00 am on Friday, March 15, 2013. In the event that not all Commentors execute the letter contained in Attachment 1 before 8:00 am on Friday, March 15, SBFCA shall have the right to withdraw from the MOU upon written notice to the NGOs.

This MOU is executed by the Parties as follows:

Dated: 3/15/13

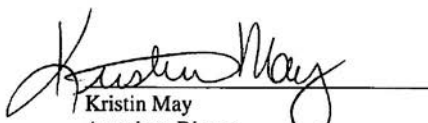

Michael Inamine
SBFCA

Approved as to form:

Scott Shapiro, SBFCA General Counsel

Dated: _____

John Cain
American Rivers

Dated: 3/15/13


Kristin May
American Rivers

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not believe that the concern has been cured, then the complaining party may provide written notice that it is withdrawing from the MOU, and the complaining party shall thereafter have no further obligations to comply with the provisions of this MOU.

- 4.3. **Counterparts.** This MOU may be executed in counterparts.
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This MOU is executed by the Parties as follows:

Dated: _____

Michael Inamine
SBFCA

Approved as to form:

Scott Shapiro, SBFCA General Counsel

Dated: 3/15/13

John Cain
American Rivers

Dated: 3/15/13

Kristin May
American Rivers

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5

Response to Letter O2, O3, and O4

A group of non-governmental organizations (NGOs) with environmental interests commented on the Draft EIS/EIR in a letter submitted on February 13, 2013. This letter was slightly revised and re-submitted on February 15, 2013. The signatories of the letter are American Rivers, American Whitewater, Audubon California, California Trout, California Waterfowl Association, Defenders of Wildlife, Friends of the River, Natural Resources Defense Council (NRDC), Planning and Conservation League, Sacramento River Preservation Trust, South Yuba River Citizens League, The Bay Institute, and Trout Unlimited. SBFCA staff and consultants have been in communication with members of these organizations during project planning, leading to a meeting held in Yuba City on November 9, 2012. Following receipt of the comment letter on the Draft EIS/EIR, SBFCA began a series of in-depth, productive, and constructive meetings with the NGOs, represented by American Rivers, which took place on February 19, February 27, and March 7, 2013. These conversations led to execution of a Memorandum of Understanding (MOU) between SBFCA and the 13 NGOs on March 15, 2013, approved by resolution from SBFCA's Board of Directors on March 13, 2013. The MOU is an attachment to the March 15 letter, immediately preceding this response.

The MOU is a landmark agreement in which SBFCA agrees to pursue multi-benefit actions, pursue flood mapping reforms to promote agriculture and protect floodplains, consider public access, and coordinate with the NGOs in these endeavors. In exchange, the NGOs offer support for the FRWLP, agreement to not bring legal action against the FRWLP or its approvals, seek funding, and coordinate with SBFCA. The MOU accompanies a letter from 11 of the NGOs supplementing the comment letters transmitted in February with clarifying discourse on 5 of the 10 comment areas from the original letters. The remaining two NGOs (NRDC and The Bay Institute) submitted an abbreviated letter that effectively states that the concerns of the prior letters have been addressed and the signatory NGOs agree to not bring a legal challenge based on NEPA or CEQA.

As introduced above, the NGO letters follow an identical structure of 10 comment areas. The responses follow this same structure.

O2-, O3-, and O4-A

This comment from the February 13 and February 15 letters primarily concerns growth inducement that may result from the project. As a first point, SBFCA supports the concept of responsible planning and providing for sustainable systems in terms of healthy, multi-benefit river corridors and economically viable communities. It is understood that these goals are supported by the NGOs as well. While some growth may occur, with or without the project, the focus of the FRWLP is to reduce flood risk for the lives and livelihoods of an existing population of 88,000 people in an economically disadvantaged community that has suffered numerous failures of the Feather River west levee. This is the opening recital of the MOU that has now been agreed to by SBFCA and the NGOs.

Much of the substance of this comment focuses on growth projections. It must be understood that projections are highly speculative and influenced by a number of factors. One such example is referenced in the comment, regarding Live Oak. According to officials with the City of Live Oak, the population growth estimates in the General Plan were intended in specific application for the purposes of conservative planning and potential "most-case" scenario effect evaluation, not with the goal or expectation of meeting them. Per page 2-6 of the Live Oak General Plan EIR, build-out estimates in the General Plan are not population or employment projections, nor are they forecasts of future development; they are a conservative estimate of the total development capacity within the

Planning Area if all parcels were to be fully developed. Actual and projected growth has been highly consistent with Sacramento Area Council of Governments' (SACOG's) future population growth estimates based on the historical growth averages cited on page 3-1 of the same EIR. Furthermore, current population data shows that Live Oak has actually decreased in population since 2008.

The comment raises specific questions, listed below.

- How does providing flood protection to a 326-square-mile area only remove 6,300 acres from the floodplain?

Response: The 6,300 acres was calculated with geographic information systems (GIS) analysis as the projected reduction in total Special Flood Hazard Area (SFHA) in the study area between pre-FRWLP conditions vs. post-FRWLP conditions. The actual calculation was 6,227 acres, which was conservatively rounded upward to 6,300 for the EIS/EIR.

- How does the project only result in 1,500 acres of additional development when the General Plans for Yuba City, Live Oak, and Sutter County (not to mention Butte County) indicate proposals for significantly more growth?

Response: The 1,500 was the estimated subset of the 6,300 where it overlaps with a sphere of influence (SOI), defined as potentially developable under a municipal general plan. The question prompted SBFCA's team to verify the methods and assumptions used for the calculation and in doing so, it was determined that in fact there is no overlap between the 6,227 and general plan SOIs in the study area. In other words, the 1,500 should be zero.

- Where are the 1,500 and 6,300 acres located?

Response: Information was shared with the commenter in communications during the week of February 11, 2013, indicating that the 6,300 acres is concentrated on naturally occurring higher ground located east of Biggs and Gridley. This was a preliminary, cursory analysis based on topography. The 1,500 acres, as discussed above, was an error and should be zero.

- How would floodplain management laws limit growth under the no-action alternative compared to the proposed project?

Response: It is considered too speculative to make a conclusive determination because many factors influence flood insurance rate mapping and floodplain management laws, such as Federal Emergency Management Agency (FEMA) restrictions.

- Do Sutter and Butte County need to build additional houses to generate sufficient tax revenues to fund the local cost-share for the project?

Response: No, the project is not reliant on growth for funding.

In conclusion, the commenters' interests and concerns are appreciated and SBFCA will continue to work to address these issues toward comprehensive flood-risk reduction for the region. However, the focus of the FRWLP is to protect existing populations in communities that have suffered flood historically from known levee deficiencies, and the FRWLP is considered the most cost-effective and immediately feasible plan to reduce risk. Comment did not necessitate change to the Final EIS.

02-, 03-, and 04-B

This comment from the February 13 and February 15 letters, clarified by the March 15 letter, primarily concerns risks to downstream communities. It also briefly discusses increased risk to local communities, but in terms focused largely on future growth that is addressed in the previous response. The concerns expressed in the February 13 and February 15 letters regarding increased risk to downstream communities were effectively withdrawn in the March 15 letter. As discussed in the comment and as agreed to in the MOU, SBFCA will coordinate with the NGOs in pursuing any future projects downstream of the FRWLP. It should further be noted that the target of 200-year protection is only for the area from Yuba City to the north to protect existing populations, 100-year as the target for the southern part of the planning area. To clarify the issue regarding differing flood protection targets for the planning area, the following text was added to the project purpose in Section 1.4.1, page 1-17: "The target of 100-year protection for the more rural, agriculture parts of the planning area, specifically the southern portion of the basin downstream of Yuba City, is driven by the goal to maintain viability and sustainability of agriculture by avoiding FEMA restrictions that would hinder construction or upgrade of agricultural infrastructure (such as farm residences, barns, silos, dryers, seasonal worker housing) and supporting businesses."

02-, 03-, and 04-C

This comment from the February 13 and February 15 letters, clarified by the March 15 letter, primarily concerns adequacy of hydraulic information. The hydraulic information referenced in the EIS/EIR was subsequently provided and described to American Rivers in conversations with SBFCA. The comment was effectively withdrawn in the March 15 letter, which adds that there is no need for reissuance of the Draft EIS/EIR as asserted in the February letters. Comment did not necessitate change to the Final EIS.

02-, 03-, and 04-D

This comment from the February 13 and February 15 letters primarily concerns compliance with EO 11988. It is agreed that there are other alternatives that reduce flood risk, and SBFCA and the State of California are actively and aggressively pursuing such measures. For example, through the Feather River Regional Flood Management Plan recently initiated, SBFCA, Three Rivers Levee Improvement Authority, Yuba County, Yuba County Water Agency, and the Marysville Levee Commission are developing a collaborative regional plan to comprehensively address issues on both sides of the Feather River, including the perspectives of the agricultural and environmental communities toward multi-benefit projects. However, these actions would not address the documented deficiencies in the west levee of the Feather River and would not address Federal and state flood management criteria. These deficiencies have contributed to multiple catastrophic failures in the past 100 years. Addressing these deficiencies through the FRWLP is the only alternative to meet that purpose and to cost-effectively reduce flood risk for existing populations. This conclusion is supported by preliminary results from the Sutter Basin Feasibility Study. Nonetheless, SBFCA is committed to studying the types of measures and alternatives suggested by the NGOs through the Feather River Regional Flood Management Plan and as agreed to in the MOU.

It should be further noted that the change in pre-project and post-project growth is negligible because as stated in Section 4.1.3.1 on page 4-8 that: "The FRWLP, if implemented, would potentially remove approximately 6,300 acres from the current officially mapped FEMA floodplain; however, none of this acreage is within areas planned for growth under the adopted municipal general plans,

based on analysis of when the area potentially removed from the floodplain is overlain with the sphere-of-influence of each city.” The project goal is to address known deficiencies to restore the intended function of the levees in line with the previously approved and authorized condition. Comment did not necessitate change to the Final EIS.

02-, 03-, and 04-E

This comment from the February 13 and February 15 letters, clarified by the March 15 letter, primarily concerns adequacy of the range of alternatives considered for the FRWLP. The comment was effectively withdrawn in the March 15 letter and the range of alternatives is concluded to be adequate. Through conversations between the SBFCA team and NGOs, the contributing factors in the agreement of the adequacy of the range of alternatives primarily stem from a better understanding on the part of the NGOs of:

- the project purpose and need to address documented levee deficiencies to achieve 200-year protection in the populated portion of the planning area and 100-year in the more rural areas,
- the flood risk and real catastrophes resulting from through-seepage and under-seepage,
- the engineering studies that have been conducted to develop the alternatives, and
- potential for future multi-benefit projects including habitat restoration.

Comment did not necessitate change to the Final EIS.

02-, 03-, and 04-F

This comment from the February 13 and February 15 letters primarily concerns the FRWLP’s lack of a multi-benefit approach. SBFCA is resolutely committed to seeking multi-benefit solutions. One such example is a floodplain restoration and hydraulic improvement project in the Oroville Wildlife Area at the north end of the FRWLP. SBFCA has pursued and is actively pursuing funding for this action in partnership with state agencies, NGOs, and the private sector. Another example is SBFCA’s proposal to mitigate woody vegetation effects from the FRWLP through revegetation of the floodplain restoration area created by the Star Bend levee setback. This proposal has received strong conceptual support from the fish and wildlife agencies and is a direct component of the FRWLP. Mitigation at Star Bend represents biodiversity and ecological structure and patch size that far outweigh the individual trees for which they are compensating. These actions and others are only made possible by addressing the levee deficiencies first, providing the foundation upon which multi-benefit building blocks can be laid (i.e., to use another metaphor, the levee remains the “backbone” of the system). SBFCA’s commitment to pursuing these and similar habitat restoration and multi-benefit actions is documented in the MOU. In regard to the specific element of the comment about accommodation of future floodplain restoration in terms of hydraulic performance, the Feather River corridor in the study area has sufficient conveyance capacity and the FRWLP has been designed with a sufficient factor of safety to specifically facilitate future floodplain restoration while still meeting or exceeding flood management objectives. The FRWLP is a true “no regrets” project in the spirit of the state funding guidelines. Comment did not necessitate change to the Final EIS.

02-, 03-, and 04-G

This comment from the February 13 and February 15 letters primarily concerns public access to the river corridor and the FRWLP's effect on access. SBFCA is very sensitive to the issue of the public's right to access. Conversely, SBFCA has constituents with strong concerns about public access. Generally, it is agreed that the public has the right to use of the river and that the Feather River is navigable by small, recreational craft. It is further acknowledged that there are limitations to access, including locked gates, lack of signage, lack of developed put-in/take-out points for non-motorized craft, and lack of parking and other amenities. It is acknowledged that there are public lands in the river corridor, including those controlled by the State of California, that are not accessible for public use. However, SBFCA does not have responsibility to address these issues as part of its proposed project focused on flood risk-reduction measures to address documented levee deficiencies according to Federal and state criteria.

The fundamental analytical premise under NEPA and CEQA is to assess the change that would occur as a result of the project. SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. From the larger perspective of SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution to adopt the MOU, which specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study.

Specific to the element of the comment regarding the environmental commitment for boat launch and park facilities, it can be found in Section 2.3.4, *Property Access Limitations, Disturbances, and Service Disruptions*, Section 2.3.4.1, *Public Use Areas*.

02-, 03-, and 04-H

This comment from the February 13 and February 15 letters primarily concerns climate change and future hydrologic conditions. It is agreed that climate change and future precipitation and run-off patterns are important to recognize and that today's plans need to envision alternative future scenarios. In project planning and design, the calculations assumed an "over-build" factor of safety to accommodate hydrologic conditions greater than the current design flow. Further, there is surplus freeboard in the system because the levee heights were set prior to construction of Lake Oroville and New Bullards Bar Reservoir, which attenuate flows. Beyond the FRWLP, SBFCA is studying measures that address conveyance and storage as suggested in the comment. The Feather River Regional Flood Management Plan, just initiated and co-led by SBFCA as the next phase of the Central Valley Flood Protection Plan, is one such venue to look at system-wide issues affecting the region and comprehensive measures to address them. Comment did not necessitate change to the Final EIS.

02-, 03-, and 04-I

This comment from the February 13 and February 15 letters, clarified by the March 15 letter, primarily concerns project performance with other foreseeable actions. It is now mutually

understood that the FRWLP terminates at a point to allow for potential future levee setback or expanded bypass options downstream of the project. This comment is effectively withdrawn in the March 15 letter, concluding with the statement that it is no longer applicable. Comment did not necessitate change to the Final EIS.

O2-, O3-, and O4-J

This comment from the February 13 and February 15 letters, clarified by the March 15 letter, primarily concerns cumulative effects on fish and wildlife resources. Two specific elements of the comment should be addressed. One is regarding the loss of habitat. It is agreed and acknowledged that historical degradation of habitat has been severe and fish and wildlife have declined in population and biodiversity. However, these conditions are part of the existing environment at the time of the noticing and analysis for the project and therefore are not factored cumulatively. In fact, the project has undergone several iterations of extensive avoidance and minimization to result in a project with minimal effects and streamlined approval processes through the permitting agencies. The project represents a “no regrets” action for flood-risk reduction that allows for substantial restoration of fish and wildlife habitat in the floodplain. The second element of the comment that should be addressed regards conveyance capacity and accommodation of floodplain restoration. As described in previous comments, the levees were built prior to upstream reservoirs, resulting in a surplus of freeboard because the reservoirs attenuate peak flows and control the flow in the river. The levees were also constructed setback from the active channel of the river for the majority of the study area. Therefore, the Feather River is not considered to be constrained by capacity in the study area. Further, the project has been designed with an additional factor of safety to accommodate future scenarios of high water-surface elevations that may result from increased channel roughness (i.e., more vegetation) or increased runoff from changed future hydrology. Moreover, this comment is effectively withdrawn in the March 15 letter based on the MOU and SBFCA’s commitment to pursue multi-benefit projects to enhance fish and wildlife habitat. It is agreed that floodplain restoration is highly desirable and the FRWLP would accommodate future restoration actions to be pursued by SBFCA.

It should be noted that the project does include ecosystem restoration through habitat mitigation provided at the Star Bend setback levee site. An MMP has been included as an appendix to this document (Appendix F.3). The MMP features enhancement of floodplain habitat for benefit of fish and wildlife, in collaboration and contiguous with restoration efforts by CDFW.

Letter O5—Natural Resources Defense Council and The Bay Institute, Monty Schmitt and Gary Bobker, March 14, 2013

Letter O5



March 14, 2013

Michael Inamine, Executive Director
Sutter Butte Flood Control Agency
1227 Bridge Street, Suite C
Yuba City, CA 95991



RE: February 15, 2013 Comment Letter on Feather River West Levee Project


Dear Mr. Inamine:


O5-A

On behalf of the Natural Resources Defense Council (NRDC), I appreciate the time that you and the Sutter Butte Flood Control Agency (SBFCA) staff have taken to meet with representatives from American Rivers and provide information to them about the Feather River West Levee Project, for which NRDC jointly filed comments on the public draft environmental impact statement/environmental impact report (EIS/EIR). Based on the information provided in those meetings, this letter is intended to clarify NRDC's position on the project.

We are pleased to support the project as well as SBFCA's related efforts to enhance fish and wildlife habitat in the Feather River corridor. Our concerns as expressed in the February 15 letter have been addressed by SBFCA staff and the commitments provided by SBFCA in the Memorandum of Understanding which it is executing with American Rivers. As a result, we agree that we will not bring a legal challenge based on CEQA or NEPA to the FRWLP as described in the December 2012 DEIR/DEIS.

Sincerely,


Monty Schmitt
Senior Scientist
Natural Resources Defense Council


Gary Bobker
The Bay Institute

Response to Letter O5

O5-A

SBFCA appreciates NRDC's and The Bay Institute's interest in the FRWLP and that the signatories agree to not bring a legal challenge based on NEPA or CEQA. Moreover, SBFCA looks forward to working with NRDC and The Bay Institute as part of the Feather River Regional Flood Management Plan to work on mutually agreed and multi-benefit approaches for the ecological and economic health of the region from comprehensive flood management planning.

Letter O6—Patrick Porgans, February 26, 2013

PATRICK PORGANS & ASSOCIATES		Letter O6
Elemental-Bio-Terrestrial Solutionist™		
(P) 916-543-0780 (C) 916-833-8734	porgansinc@sbcglobal.net	P.O. Box 60940, Sacramento, CA 95860
Serving the Public and Private Sectors Since 1973		
26 February 2013		
To: Jeff Koschak		
Senior Environmental Manager		
U.S. Army Corps of Engineers		
1325 J Street		
Sacramento, CA 95814-2992		
Email: jeff.a.koschak@usace.army.mil	Fax: (916) 557-7856	
Re: Comments on Feather River West Levee Project Draft EIS/EIR		
Dear Sir:		
1 In accordance with our telephone conversation of 25 February 2013, and		Note I: In order for the reader to better understand and comprehend how and why the aforementioned project and/or actions present a significant unmitigated threat to the safety, wellbeing, and sustainability of downstream properties, it is important to understand that only a small fraction of the historical floodwater flows made their way down the mainstem of the Feather River; the majority of the floodwaters overtopped the west bank of the river into the Butte and Sutter Basins.
2 your subsequent email, Porgans & Associates (P&A) are submitting the		
3 following comments on the Draft Feather River West Levee Project		
4 Environmental Impact Statement (DEIS) and the Environmental Impact		
5 Report (DEIR). However, before doing so, on behalf of my clients, P&A		
6 would like to extend our appreciation for providing the opportunity to		
7 submit comments, which, as you mentioned, would be included and		
8 addressed in the final EIS/EIR.		
9		
10 As a result of the lack of notification it is impossible to adequately response to the 1483 pages of information		
11 contained in the DEIS/DEIR; therefore, P&A will briefly address and comment on the most incongruent issues as it		
12 pertains to the approach undertaken: (1) Adequacy of the DEIS/DEIR; (2) Effectiveness of the plan, and (3) conflicting		
13 information pertaining to historical flooding.		
14		
15 (1) Adequacy of the DEIS/DEIR: Although the DEIS/DEIR is voluminous and contains a substantial amount of		
16 information, as it pertains to the assessment of the alternatives; the applicant-preferred alternative (APA),		
17 while possibly serving the intent of the Sutter Butte Flood Control Agency's (SBFCA) objectives to reduce		
18 seepage and future levee failure. However, the APA, as proposed would exacerbate and compound historical		
19 flood related threats and unmitigated damages attributable to past government-sanctioned flood control		
20 O6-B protections to property owners and public trust resources on the east bank of the Feather River,		
21 commencing from the bridge at Highway 160 down to the Honcut Creek, as there are no project levees		
22 located within this reach on the east bank. The following information confirms the fact that government was		
23 aware of the fact flooding would occur on the east side however it opted not to provide flood control		
24 protection for this reach of the Feather River, thus leaving properties vulnerable to increased flood damage.		
Re: Comments on Feather River West Levee Project Draft EIS/EIR Page 1 of 6		

1 **RESPONSE: Historical and Existing Flood Protections Detrimental to Downstream Property Owners**

2
3 P&A obtained a copy of a Department of Water Resources' (DWR) confidential report that attest to the fact that
4 since the construction of government sanctioned project levees, on the west bank of the river, commencing at
5 Hamilton Bend to the river's confluence at Honcut Creek, significantly exacerbated subsequent flood damages
6 downstream. The Project levees were willfully designed and constructed to restrict the natural-historical overflow
7 configuration of the channel, and sanctioned higher levels of floodwater to be constricted within the channel.
8 Reconfiguration of the channel's carrying capacity can increased the duration, stages, and velocity of floodwaters,
9 which now subject the eastern portion of the river channel to heightened flooding and inundation to properties such
10 as JEM Farms. The documentation to support this contention was outlined in detailed in Department of Water
11 Resources (DWR's 1957 confidential report; excerpts from that document, read as follow:
12

13 *Under natural conditions the river channel were of moderate section and conveyed*
14 *but a small fraction of the flood discharges. The lateral basins carried the greater portions*
15 *of the flood waters and acted as flood storage reservoirs. They also received and retained a*
16 *large portion of the sediments delivered to the valley floor. During flood periods, the Feather*
17 *River overflowed large areas beyond its defined low water channels from Hamilton Bend six*
18 *miles below Oroville to its confluence with Sacramento River. [Emphasis added]*

19 **O6-B**
20 **cont'd**

21 *The volume of overflow waters along the west bank of the Feather River greatly*
22 *exceeded the volumes discharged over the east bank. At Hamilton Bend overbank flows*
23 *through Hamilton Slough and for a distance of several miles downstream there from coursed*
24 *westward to Butte Basin where they merged with the Sacramento River overflows near*
25 *Colusa. The magnitude of this cross-country flow from Feather River is evidenced from*
26 *reports concerning the 1907 and 1909 floods which state that the rush of water from*
27 *Feather River flowed across Butte Basin north of the Sutter-Buttes, breached the*
28 *Sacramento River levees and entered Colusa Basin on the west side of that river. ¹*

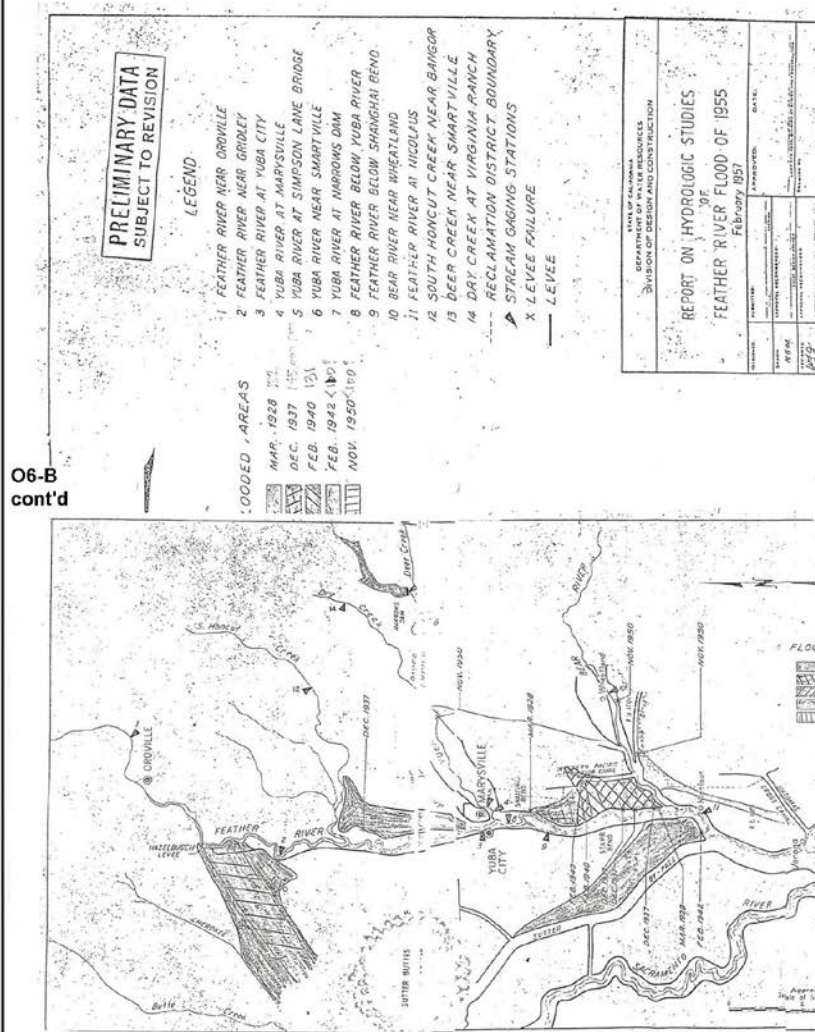
29 *Along the east bank from Oroville to Honcut Creek the inundation was confined to a*
30 *relatively narrow strip of land limited by bluffs paralleling the river channel. A wider area*
31 *(now known as reclamation district 10) was subject to inundation between Honcut Creek and*
32 *Yuba River. ² [Map 1, page 3.] [Emphasis added]*
33
34
35

¹ Department of Water Resources' (DWR) 1957 Confidential Report to Board of Consultants, **Feather River Flood**
Damage Studies, 27 March 1957, p.2. [Note: Map 1: Illustrates massive flood flows breaching Feather River
Channel on the west bank near Hamilton Bend and Hazelbush Project Levee.

² FYI: Department of Water Resources' (DWR) 1957 Confidential Report, obtained by P&A, entitled,
Feather River Damage Studies, Exhibit 1.

- 1 As stated, P&A's clients, with longstanding agricultural operations, located on the east side (left bank) of the Feather
- 2 River, had not been notified of the proposed Feather River West Bank Levee Project (Project), although their
- 3 properties and agricultural operations will be impacted by the proposed action.

Map 1: CONFIDENTIAL REPORT MAP



Re: Comments on Feather River West Levee Project Draft EIS/EIR Page 3 of 6

O6-B
cont'd

Suffice it to say, there is a need to provide additional flood protection, such as the 41-miles of proposed levees, in this reach of the river, and although the clients are not opposed per se to the Project, they have expressed legitimate concerns as to the ongoing and future impacts of government sanctioned flood-control protections.

It is with the aforementioned thoughts in mind P&A respectfully submits the following comments and concerns regarding measures and alternatives not carried forward, as referenced in the DEIS/DEIR.

ES.2.4.2 Measures and Alternatives Not Carried Forward

Several measures and alternatives for the FRWLP were considered but not carried forward based on the screening criteria presented above. These alternatives are listed below and briefly described in Section 2.7.2.

- Alternative levee alignments.
- Setback levees.
- Ring levees.
- J-levee.
- Reoperation of upstream reservoirs and bypasses.
- Development of additional upstream storage.
- Construction of Feather River Bypass.
- Raising Building Pads.
- River Dredging.³

Three of the above referenced alternatives, which have not been carried forward, and to wit P&A will limit is comments are reoperation of upstream reservoirs and bypasses; additional upstream storage; construction of Feather River Bypass, and river dredging.

Failure to carry forward reoperation of upstream reservoirs and bypasses; construction of Feather River Bypass and/or river dredging is sure to exacerbate flood damage and degradation of public trust resources on the east bank of the Feather River, in perpetuity, and under certain types of condition caused by natural or government induced phenomenon may put those urban areas beyond the west bank at even great risk in the event of levee failure.

- (2) **Effectiveness of the Proposed Project:** The proposed project is myopic in scope, and limited in its ability to provide sufficient flood control protection because it omitted critical components of those other alternatives not carried forward, which, if integrated into the project would have afforded a greater degree of flood protection and safety for all concerned. Furthermore, due to the fact that the operation of the flood control facilities at the State Water Project's Oroville Dam and Reservoir play a major role in providing flood protections to minimize downstream damages is outside the jurisdiction of the SBFCA, is in an by itself a major flaw in the proposed project.

- (3) **Design and Mismanagement of Flood Control Projects and Historical Operation of the SWP's Oroville Flood Control Facilities (floodwater releases) have and continue to exacerbate Flood Damages on the Left Bank of the Feather River:**

O6-D

Construction of the Sacramento River Flood Control Project levee on the west bank, south of Hamilton Bend commenced in the 1940s. The design capacity of the modified channel from Oroville Dam to Honcut Creek is 150,000

³ U.S. Army Corps of Engineers and Sutter Butte Flood Control Agency Draft Feather River West Levee Project EIS/EIR, December 2012, p. ES-16.

1 cubic feet per second (cfs); 180,000 cfs above its confluence with the Yuba River, and 300,000 cfs below the
2 confluence. According to the records, the design capacity of the channel was prefaced on the Flood of 1907.
3

4 **U.S. Army Corps of Engineers' Flood Control Manual for Oroville Dam and Reservoir, Feather River, California,**
5 **Report on Reservoir Regulations for Flood Control:**
6

7 The Federal Flood Control Manual places limitations on flood water releases to the following: "Feather River flows
8 should not exceed 150,000 cubic feet per second (cfs.) at Oroville nor 180,000 cfs. and 300,000 cfs. above and below
9 the mouth of Yuba River, respectively."⁴ During the 1986 and 1997 flood events, DWR made floodwater releases
10 from Oroville Dam in excess of what is required in the manual. Furthermore, "Releases from Oroville Dam are not to
11 be increased more than 10,000 cfs. nor decreased more than 5,000 cfs. in any two-hour period."⁵ However,
12 Department of Water Resources; (DWR) records (bi-hourly computation sheets) revealed that on several occasions it
13 increased floodwater releases in 20,000 cfs. increments within a two-hour period during major flood events.
14

15 The flood control component of Oroville Dam was designed to handle a three-day-volume of 1.52 million acre-feet
16 with a peak inflow of 440,000 cfs. (which did not occur during either the 1986 or 1997 flood), while restricting the
17 maximum flood flow releases from the dam to 150,000 cfs. The maximum inflow during the 1997 flood was
18 estimated at 300,000 cfs., and the three-day-volume was estimated at 1.25 million acre-feet; DWR claimed
19 floodwater releases from Oroville Dam were about 163,000 cfs; however, Porgans & Associates' engineer, measured
20 the floodwater releases, at the time, to be in excess of 173,000 cfs.
21

22 "The primary objectives of flood control operation are (1) to minimized flood damage downstream,
23 and (2) to avoid causing damage insofar as practicable, that would not have occurred under
24 conditions without the project." The release schedule shown on Chart A-1 will provide protection for
25 agricultural development with the floodway from frequently occurring floods, without sacrificing
26 reservoir design flood (SPF) protection for lands outside the floodway."⁶
27

28 **O6-D**
29 **cont'd**

30 **Table 3-1-1. Common Flood Frequency Terminology**

31 DWR has estimated that the channel capacity of the Feather river from Oroville to its confluence with
32 the Yuba River to be 210,00 cfs; 300,000 cfs from the confluence with the Yuba River to the Bear
33 River; and 320,000 cfs from the confluence with the Bear River to the Yolo Bypass (California
34 Department of Water Resources 2010: 3-6; U.S. Army Corps of Engineers 2002b: 20).
35

36 Because of channel limitations of the Feather River near the Yuba River and below the Bear River, the
37 maximum allowed release criterion for Oroville Dam is 160,00 cfs. Oroville Dam flood operations are
defined by the release schedule provided in the operations manual (U.S. Army Corps of Engineers

⁴ Department of the Army, Sacramento District, Corps of Engineers, Sacramento, California, Oroville Dam and Reservoir, Feather River, California, Report on Reservoir Regulations for Flood Control, August 1970.

⁵ *Ibid* Department of the Army, Sacramento District, Corps of Engineers, Sacramento, California, Oroville Dam and Reservoir, Feather River, California, Report on Reservoir Regulations for Flood Control, August 1970.

1970). Operations are not to exceed the forecast flow upstream and downstream of the Yuba River. Structurally, the release gates can allow control releases of 250,000 cfs.

DWR has estimated that a 200-year storm event would require releases of 170,000 cfs from Oroville Dam and that a 500-year storm event would require releases of 250,000 cfs.⁷

Flood Frequencies on Feather River Indicate Increased Risk at Given Design Flow

The following statements are excerpts from DWR's Chief Hydrologist, subsequent to the 1997 Flood.

O6-D

cont'd *The recent flood [1997] again set new records on major Sierra rivers. When these are plugged into a frequency determination, the amount at a given frequency or the risk at given design levels will go up. We'll [DWR] introduce a new round of charts and probably a bunch of determinations that the existing 100-year levels are not that anymore, but less, and a new round of project work will be needed to provide revised 100-year flood protection, some in areas which have just done a lot of work. This is one of the problems with working on statistic based on relatively short record. Maybe for major projects we should go back to the old standard project flood idea or justify to some level of historical storm. People are being misled by all these numbers and risks, not realizing how tentative they are and the rather large uncertainty involved.* [Emphasis added]

*The Feather River chart shows the comparison for Oroville dam. As noted before, this one [1997 Flood] was perhaps 25 percent bigger than 1986, which itself was the biggest to that time, although not too much more than a 1907 flood.*⁸ (p. 9) [Emphasis added.]

Response: The Feather River has not experienced the Standard Project Flood to date; and there are questions as to whether or not it has even experienced the so-called "100-year flood event"; notwithstanding floodwater releases have been equal to or in excess of the maximum allowable releases for the flood events to date. It is also important to note that DWR provides the floodwater release numbers to the USACE.

Conclusion: The impending time constraints prohibit P&A from elaborating on other significant issues and impacts associated with the proposed Project.

O6-E

Respectfully,

Patrick Porgans, Solutionist

⁷ U.S. Army Corps of Engineers and Sutter Butte Flood Control Agency Draft Feather River West Levee Project EIS/EIR, December 2012, p. 3.1-10.

⁸ Maurice Roos, Chief Hydrologist, CA Department of Water Resources, P.O. Box 219000, Sacramento, CA 95821-9000. Presented at the Sierra College California Weather Symposium, June 28, 1997 in Rocklin, CA, p. 9.

Response to Letter O6

O6-A

It is agreed that prior to European settlement in the mid-19th century, much of the floodwaters in the Sacramento Valley would overtop the natural banks of the rivers and flow into the basins adjacent to the river channel. These flow patterns were later largely adopted into the Sacramento River Flood Control Project as the bypass system in place today.

O6-B

This comment has two primary issue areas. The first and most substantial is the assertion that historical flood patterns tended toward the west of the Feather River and that the FRWLP would reduce that potential and thereby potentially increase flood risk to the east. As discussed in the prior response, it is agreed that much of the floodwaters in the Sacramento Valley would overtop the natural banks of the rivers and flow into the basins adjacent to the river channel. Catastrophic floods from the Feather River have tended toward the west; however, SBFCA has conducted a thorough analysis, including review by independent, third-party experts and technical review by USACE, California Department of Water Resources (DWR), and the Central Valley Flood Protection Board [CVFPB]—the agencies for which this is part of their permitting authority and mission—and no issues have been identified with increased or transferred risk that may result from the FRWLP. Similarly, the agencies with flood management responsibilities adjacent to and downstream of the project have not raised any objections to its implementation. To reduce regional flood risk beyond the FRWLP, as the next phase of the Central Valley Flood Protection Plan, SBFCA is collaborating with partners on both sides of the river in the Feather River Regional Flood Management Plan to develop a mutually agreed upon and mutually beneficial framework to reduce flood risk for all communities in the region. SBFCA is a co-lead agency along with Three Rivers Levee Improvement Authority, Yuba County, Yuba County Water Agency, and the Marysville Levee Commission. In regard to the second part of the comment, it is regretted that the commenter's clients did not receive direct notice. Nonetheless, the project was noticed per the requirements of NEPA and CEQA, and it is appreciated that the commenter's client's perspective is represented and it is being considered.

O6-C

It is agreed that certain measures and alternatives that were screened out and not carried forward in the FRWLP have merit for further investigation in the opinion of SBFCA, including those mentioned in the comment. The screening of the alternatives involving bypasses and reservoirs was primarily determined by the ability of SBFCA to pursue these measures within SBFCA's authority and means; the availability of studies to refine the concept, analyze the feasibility and effectiveness, and determine other effects; and the ability to implement the alternative quickly and cost-effectively to meet Federal and state flood management criteria. Moreover, implementation of these alternatives would not address documented system deficiencies that have directly contributed to levee failure and catastrophic floods on the west levee in multiple events over the past 100 years. This is also true for dredging. Therefore, while these alternatives do not meet the purpose, need, and objectives for the FRWLP, SBFCA is continuing to investigate these ideas beyond the FRWLP toward comprehensive regional flood-risk reduction. Specifically, as the next phase of the Central Valley Flood Protection Plan, SBFCA is collaborating with partners on both sides of the river in the Feather River Regional Flood Management Plan to develop a mutually agreed upon and mutually beneficial framework to reduce flood risk for all communities in the region. SBFCA is a co-lead agency along

with Three Rivers Levee Improvement Authority, Yuba County, Yuba County Water Agency, and the Marysville Levee Commission. One specific element of the comment seems to assert that the FRWLP may induce greater risk to other communities. SBFCA has conducted a thorough analysis, including review by independent, third-party experts and technical review by USACE, DWR, and CVFPB—the agencies for which this is part of their permitting authority and mission—and no issues have been identified with increased or transferred risk that may result from the FRWLP. Similarly, the agencies with flood management responsibilities adjacent to and downstream of the project have not raised any objections to its implementation. Comment did not necessitate change to the Final EIS.

O6-D

The comment as stated in the introduction essentially asserts that the design, operations, and maintenance of Lake Oroville and the Feather River influence flooding on the east side of the river. The east side of the river is not part of the project and is in the scope of the analysis only on a limited basis for determination of hydraulic effects. It has been determined that the project would have no significant effects on the east side of the river. The information and detail in the comment is appreciated and SBFCA will consider this information in development of the Feather River Regional Flood Management Plan.

O6-E

The commenter's interest in the project and participation through submittal of comments is appreciated. It should be noted that the comment period for the project was greater than the 45 days required under NEPA and CEQA. Comment did not necessitate change to the Final EIS.

Chapter 4

Comments from Individuals and Responses

This chapter contains the comments received on the Draft EIS/EIR from individual citizens and stakeholders. Each comment letter has been assigned a unique code. Each comment within the letter has also been assigned a unique code, noted in the margin. For example, the code “I1-A” indicates the first distinct comment (indicated by the “A”) in the first letter (indicated by the “I1”) received from an individual (indicated by the “I”). The chapter presents each comment letter immediately followed by the responses to that letter. Table 4-1 summarizes the commenting party, comment letter signatory, and date of the comment letters.

Table 4-1. List of Comment Letters from Individuals

Letter	Comment Letter Signatory, Date	Letter	Comment Letter Signatory, Date
I1	Francis Coats, December 23, 2013	I16	Francis Coats, March 18, 2013
I2	Francis Coats, December 23, 2013	I17	Bob Hackamack, December 26, 2012
I3	Francis Coats, December 29, 2013	I18	John M. Kuster, December 27, 2013
I4	Francis Coats, January 9, 2013	I19	Al Sawyer, January 16, 2013
I5	Francis Coats, January 9, 2013	I20	Vincent Hamilton, January 16, 2013
I6	Francis Coats, January 9, 2013	I21	Vincent Hamilton, January 16, 2013
I7	Francis Coats, January 19, 2013	I22	Michael C. Andrews, January 17, 2013
I8	Francis Coats, January 23, 2013	I23	Sharron Cosker, January 19, 2013
I9	Francis Coats, January 23, 2013	I24	Sharron Cosker, January 25, 2013
I10	Francis Coats, February 6, 2013	I25	Carl Cilker, January 28, 2013
I11	Francis Coats, February 7, 2013	I26	Jeff Fredericks, February 12, 2013
I12	Francis Coats, February 11, 2013	I27	Eugene A. Krebs, February 13, 2013
I13	Francis Coats, February 13, 2013	I28	Rick Walkling, February 15, 2013
I14	Francis Coats, March 2, 2013	I29	Edward C. Beedy, PhD, February 15, 2013
I15	Francis Coats, March 14, 2013		

Letter I1—Francis Coats, December 23, 2013

Letter I1

-----Original Message-----

From: Francis Coats [<mailto:fecoats@msn.com>]

Sent: Sunday, December 23, 2012 6:16 PM

To: FRWLP_Comments

Subject: 1863 relocation of the konkow maidu by co f 2nd Cal vol Infantry

I.1.2.1 is inaccurate.

The occupation of the valley lands by whites was close to complete by 1852, before gold miners turned to farming. Yes it happened that quickly.

I1-A

The maidu were not rounded up by local militia. They were rounded up by company f 2nd California volunteer cavalry, a more or less regular army unit which had been defending tame Indians from vigilantes for months prior. The officers had no idea why they were relocating the Indians as they were all owned by or employed by locals. Big land owners Bidwell and Sutter wanted to keep the Indians in the valley as they were a source of seasonal labor. Others wanted to kill all Indians not relocate them. See records of the war of the rebellion on Google Books. My great grandfather's brother, Augustus Starr, was one of the officers. The troopers put Indians on their horses to try to get them to come alive. Hell of a story in more ways than one and you ought to get it right. Oh+ spell Starr Bend with two r's, please. I hope you did not pay much for your inaccurate history. US Army reports tell the story. No mystery. Not hard to find.

Francis Coats 3392 Caminito Avenue Yuba City CA (530) 701-6116 fecoats@msn.com
Sent from my Kindle Fire

Response to Letter I1

I1-A

Comment noted. Please note that the purpose of this context is primarily to identify the basis for the significance of specific built environment and archaeological resources. The clarifications suggested by the commenter are important historical details; however because they do not relate to specific tangible resources they are not directly related to the purpose of this context. Comment did not necessitate change to the Final EIS.

Letter I2—Francis Coats, December 23, 2013

Letter I2

-----Original Message-----

From: Francis Coats [<mailto:fecoats@msn.com>]

Sent: Sunday, December 23, 2012 9:55 AM

To: FRWLP_Comments; Roberta Fletcher; jennifer.lucchesi@slc.ca.gov;
thomaswilcox@digitalpath.net; megan@americanwhitewater.org;
danielle@riversforchange.org; tbartlett@dfg.ca.gov; john@riversforchange.org;
info@californiacavalry.us; bhackamack@frontier.com; grace95991@hughes.net;
ajames@sc.edu; eric@maidu.com; raymcreynolds@yahoo.com; hsweetser@aol.com;
brent.handley@tpl.org; sharman07@comcast.net; alan@alarsonsafety.com;
hkruger@appealdemocrat.com; staff@tuolumne.org; johnsonsbait@syix.com;
jpokrandt@riverpartners.org; josh2th@aol.com; patrick@tuolumne.org;
frydee@comcast.net; ahurtado@ou.edu; ccreekin@yahoo.com; mphogan@ucdavis.edu

Cc: Dave Steindorf; Julie Fair; Helen Swaggerty; Mary Hays; Jan Stevens

Subject: Feather River West Bank Levee Project EIS/EIR; the California
Recreational Navigable Servitude

FRWLP_CommentsAysace.armu.mil

Friends:

I2-A I have just had a preliminary opportunity to review the draft Environmental
Impact Statement/Environmental Impact Report (EIS/EIR) for the Feather River West
Levee Project. It omits any reference to the concerns for protection of the
public's rights to use the rivers and the banks of the rivers for recreational
purposes under the navigable servitude recognized in California, which I raised
at the preliminary public meeting in Yuba City.

[the report is available for inspection at :

<http://www.spk.usace.army.mil/Media/USACEProjectPublicNotices.aspx>

public meetings are scheduled:

Tuesday, January 15, Gridley
Gridley Veterans Memorial Hall
249 Sycamore Street
Gridley, CA 95948
time 6:00 pm to 8:00 pm

Wednesday, January 16, Yuba City
Veterans Memorial Community Building
1425 Veterans Memorial Circle
Yuba City, CA 95991
Time 3:00 pm to 5:00 pm (and)
6:00 pm to 8:00 pm

I2-B So as to avoid misunderstanding, please be aware that I live behind these levees,
south of Yuba City, and I am completely in favor of improvements to achieve
greater flood protection. I am a little cynical of improvements made to improve
the use of the river as a conduit for shipping water outside of the basin, and
feel strongly that the beneficiaries of water export should be paying for levee
improvements made necessary by their water supply management practices. Also,

I2-B
cont'd

flood protection in Sutter County, particularly set-back levees increasing storage during peak flows, benefits Sacramento and points south, and they should participate in any costs (or loss of tax money) involved.

However, respecting the public's rights to use the river and the bottom-lands below highwater mark presents no conflict with flood protection. I would like to see a reasonable effort made to assure that poor planning does not result in infringements upon these rights.

I2-C

1. A navigable river, in California, is one susceptible to use for recreational navigation, even in small un-motorized boats. (People ex rel. Baker v. Mack 1971 19 Cal.App.3d 1040; National Audubon Society v, Superior Court 1983 33 Cal. 3d 419, 435 fn 17). Under this standard, the Feather River is navigable at least to some point in the Sierras above Oroville.

Note that there is a public boat ramp on the Feather at Live Oak, and, I believe, some boat ramps in Butte county, -a clear indication that the river is navigable throughout the project area.

1b. Under this standard, small tributary streams, such as Jack Slough at Marysville, Butte Creek in Butte and Sutter counties, and Butte Slough in Sutter County, are navigable and currently subject to a right of public access, both on the water and on the land below highwater mark adjacent to the stream.

2. Under the navigable servitude, members of the general public are entitled to use the river, and the land adjacent to the river up to the high-water mark, for boating, swimming, hunting, fishing, bird-watching, picnicking and in general recreational pursuits. That is, walking in the bottom lands, without ever entering the water, is a protected right which exists now.

3. The critical weakness to the recreational navigable servitude is that it may not provide access from public roads to the land below highwater mark, depending on the topography and land ownership patterns in a particular location. That makes it critical to identify and preserve those access routes. The EIS/EIR does not discuss access issues.

4. Given that levees and their associated toe drains, as well as fences and gates, block travel between the dry side of the levee and the wet side of the levee, it is foreseeable that a levee improvement or change may block existing access.

5. Some levee districts, Levee District No. 1, for example, have a policy of blocking public access to the river. At Starr Bend Road, LD1 has erected and maintains a locked gate blocking access from Garden Highway to the Feather River along an existing, formally created and never abandoned, public road. LD1 is aware of this, having requested and been denied an abandonment of the road by the county. This road serves both publicly owned and privately owned land on the wet side of the levee, land some of which is below highwater mark and therefore subject to the navigable servitude.

6. Some state agencies fail to disclose opportunities for public access. Department of Fish and Game owns the Morse Road unit, and includes that unit in its Feather River Wildlife Area, but does not mention its existence in its website or publications (except for its formal regulations, in which it is included in the FRWLA and subjected to the general rules of the FRWLA).

7. The EIS/EIR is written as though there are discrete "recreation areas"

I2-C
cont'd

↑
withing the project. In fact, the entire river and the land adjacent to the river and below the highwater mark, are recreation areas in which the public currently has a right to exercise the incidents of the navigable servitude. Any riprap, for example, will interfere with existing recreational use rights. If riprap interferes with walking along the river, perhaps an alternate route around the riprap must be provided.

8. The EIS/EIR is written as though recreation is an extra, which may be considered if it fits within the other considerations. Recreation use of the rivers and the land adjacent to the rivers below the highwater mark is a currently existing vested right which the project must accommodate. Public use is is not an optional extra.

9. The EIS/EIR reflects no attempt to identify routes of access to the river, to be preserved. Formally created public roads, including antique roads, and routes informally acquired by dedication should be identified and efforts taken to preserve the access.

10. Discussions of access are complicated by uncertainty as to who may own the right to permit or exclude access to the land upon which a levee sits. Many levees are build on easements, with the underlying landowner retaining ownership. The law may or may not respect the underlying landowner's claimed rights, depending on the facts of an individual case. At Second Street in Yuba City it seems well established that homeowners whose predecessor's interest granted an easment for levee construction but carefully reserved the right to exclude the general public from use of the levee for recreation purposes, have been successful. On the Bypass levee, case law indicates that the levee maintenance organization may exclude the underlying landowner from grazing sheep on the levee. That there may be an underlying landowner creates uncertainty as to the levee maintenance organization's ability to exclude the public from land which the levee maintenance organization may not own. This leaves the public in a vulnerable no-man's land. Many people won't challenge a "no trespassing," whether placed by a levee maintenance organization or a person claiming to be an underlying land owner. The public needs the EIS/EIR to address these issues regarding the extent to which the public may have a right to walk along or across the levees. These rights may vary from tract to tract.

11. The EIR/EIS does not discuss river and bottomland/riverbank access for mobility impaired persons. There ought to be some evaluation of the degree to which the project will be ADA compliant in providing representative, fair access to the rivers.

12 Boat ramps. On the Feather, on the right (Yuba City) bank, there are boat ramps at Live Oak (Pennington), Yuba City (Mosquito Beach), and Boyd Pump. On the left bank there are boat ramps at Marysville (Riverside Park) and Starr Bend. The Feather is obstructed for boating at Paseo Road by the Sunset Weir, and at Yuba City by the rapids/falls. There are no boat ramps on the Feather from Starr Bend to its mouth on the Sacramento, so far as I know. In other words, access for canoeing or kayaking or floating is questionable. If you want to go downstream and pull out downstream, you have problem. There are no generally publicized pull-out points for rafts, canoes or kayaks below Starr Bend. I don't think there is a convenient, signed portage route to get around the Sunset Weir.

I hope to have time to prepare a better and more complete statement regarding the EIR/EIS failure to address the effect of the project as proposed on the public's existing rights to use the rivers and the land adjacent to the rivers up to the
↓

I2-C
cont'd

↑
highwater mark, and, on routes of access to the river and land adjacent to the river and below the highwater mark.

As a final note, I learned of the release of the draft EIR/EIS from an acquaintance who had attended a preliminary meeting in Gridley. I attended and spoke at the preliminary meeting in Yuba City. I was one of only two attendees at that meeting, and river access was the primary subject of my comments. My comments were not addressed in the draft documents, and I was not sent notice of the release of the documents. My acquaintance received a letter and a draft on CD. I wonder what happened. This is interesting because you have published an e-mail from me in the document - you knew I existed, and had expressed an interest in the document, and you had my address.

Thank you for your attention to these comments.

Frank Coats, 3392 Caminito Avenue, Yuba City, CA 95991 (530) 701-6116,
fecoats@msn.com

Response to Letter I2

I2-A

The commenter's concerns are reflected directly in the Draft EIS/EIR on page 1-29, Section 1.6.3.5, *River Access for Recreation*, which states: "The Feather River is popular for recreation activities such as fishing, boating, walking, wildlife viewing, and other passive uses. There is demand to increase opportunities for public access to the river corridor." SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limitations of access within the construction footprint and during the construction season for public safety. The recreation access analysis was supplemented after the Draft EIS/EIR to specify locations and distances to similar recreation opportunities to assist recreationists during the temporary loss of access caused by the project (beginning on page 3.14-9 under effect REC-1 for Alternative 1). As far as SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution to adopt an MOU on March 13, 2013, which specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study.

I2-B

The comment is understood to focus on the funding for the levee improvements. In fact, the project is expected to be predominantly paid for by monies made available by bonds authorized by the voters of California through Proposition 1E, administered by California Department of Water Resources (DWR) through a competitive process under which projects are evaluated for public benefit. These State-authorized funds will be leveraged by dollars raised through local assessment. Therefore, most of the financing for the project is paid for by Californians, including downstream

interests referenced in the comment. In regard to the element of the comment regarding the improvements being necessitated by water supply management practices, the circumstances are actually the opposite. The levee deficiencies present flood risk during the rainy season when water exports are at their lowest, coinciding with when the reservoirs are being managed at high release rates to allow for flood capacity rather than retaining water for later exports (counter to storage for water supply).

I2-C

Generally, it is agreed that the public has the right to use of the river and that the Feather River is navigable by small, recreational craft. There are public facilities providing for such access along the river corridor. It is further acknowledged that there are limitations to access along the river corridor, including locked gates, lack of signage, lack of developed put-in/take-out points for non-motorized craft, and lack of parking and other amenities. Although the public has the right to use navigable rivers of the state, this right is not absolute, and may be reasonably regulated in pursuit of other public trust purposes, including environmental needs. *Carstens v. California Coastal Com.* (1986) 182 Cal.App.3d 277, 289. This project would only replace gates in-kind as necessitated by construction and does not propose any new gates. No net reduction in public access will occur as a result of this project.

It is acknowledged that there are public lands in the river corridor, including those controlled by the State of California, that are not accessible for public use, or from which access to the river corridor is limited by locked gates, lack of signage, or lack of developed put-in/take-out points for non-motorized craft, and lack of parking and other amenities. However, the California constitution does not impose an affirmative duty on public agencies to develop additional public access where none currently exists. In particular, here, where any change to access is both temporary and incidental to the project, SBFCA does not have responsibility to address access issues predating the project when evaluating the proposed project, which is focused on flood risk-reduction measures to address documented levee deficiencies according to Federal and state criteria.

As to the responsibility of USACE and SBFCA to address these circumstances in the FRWLP EIS/EIR, the fundamental analytical premise under NEPA and CEQA is to assess the change that would occur as a result of the project. As discussed elsewhere in this response to comments, the FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. These types of temporary limitations on public access are consistent with the right of the public to access the State's navigable rivers. See, e.g., *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 523-526.

From the larger perspective of SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution to adopt an MOU on March 13, 2013, which specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study.

With regard to the specific points in the comment, Levee District (LD) 1 is indeed a member agency of SBFCA but represents only two of 13 votes. Any policy of LD 1 would not necessarily be the policy of SBFCA. The adoption of the MOU including provision of public access is evidence that SBFCA is an

independent decision-making body. With regard to the point about riprap, there is no riprap proposed as part of the proposed FRWLP.

In regard to the specific comments about access locations, land ownership, and accessibility by the disabled, as stated previously, SBFCA does not propose to change these circumstances as part of the FRWLP; these circumstances do not affect nor would they be affected by the FRWLP; and USACE and SBFCA are not obligated to describe these circumstances under NEPA and CEQA review for the FRWLP.

In regard to the notice of availability, it is deeply regretted that the commenter did not receive direct notice. The reason is that the notice was published, posted, and sent through direct mail—all adequate means under NEPA and CEQA—but not via e-mail. The sign-in sheet completed by the commenter at the scoping meeting shows only an e-mail address was provided. Efforts have been made to ensure that the commenter's perspective is heard and considered, including two meetings with SBFCA staff and consultants and consideration of comments submitted by the commenter up to the point of publication of the Final EIS and Final EIR. USACE will ensure that the commenter is included on the mailing list for future notice regarding this project and the Sutter Basin Feasibility Study.

Letter I3—Francis Coats, December 29, 2013

Letter I3

-----Original Message-----

From: Francis Coats [<mailto:fecoats@msn.com>]

Sent: Saturday, December 29, 2012 10:01 AM

To: FRWLP_Comments

Subject: What happened to the evening in yuba city scoping meeting

1. On June 27, 2011, there were two scoping meetings in Yuba City, one in the afternoon and one in the evening. I attended and spoke at the evening meeting, and I think I filled out a card for future notices. In reviewing the EIS/EIR I see transcripts for speakers at the Yuba City afternoon meeting and for the speakers at the Gridley meeting, but none for the evening meeting. I also did not get notice of the availability of the EIS/EIR until I saw one somewhere else, and asked you for one, so it sounds like you lost the contact cards from the evening meeting.

I3-A So, what happened? Why is there no transcript of the speakers at the evening meeting included in the EIS? Why didn't I get notice of the EIS availability the first time around?

2. On the transcripts you show, I see the stenographer swearing under penalty of perjury that he/she swore the speakers in at a deposition. There was not deposition and the speaker were not required to take an oath (were they?). So, can you explain why the stenographer swore to this under penalty of perjury.

3. While we are on the subject of the stenographer: does he or she have a record of what was said by the speakers at the evening scoping meeting?

4. As you may be aware, on the already completed Starr Bend levee set-back, project money was spent to build gates which LD1 keeps locked, blocking public travel across the levee between the dry and the wet sides, at both Starr Bend Road and Tudor Roads, both of which are formally created public roads. There is no particular levee related purpose for the gates at Starr Bend Road, as there are also gates at this point blocking travel along the levee-top road. This both makes clear that there is a real risk that this project will block river access and maybe it suggests that this project has already been used by LD1 to block cross levee river access.

I3-B

so:

a. Is the already completed work at Starr Bend and Tudor Road the subject of this EIS/EIR?

b. Will project money be spent to build other gates which may be used in blocking access across the levee, where substantial work on the levee is anticipated?

c. What is the plan, if any, to assure that project money is not spent to block cross levee access?

d. If the plan is to allow the use of project money to build gates to block cross levee access, what is your justification for using taxpayer money to block taxpayer access to the river and the bottom lands?

Response to Letter I3

I3-A

There are two main concerns raised in this comment. One regards notification of the availability of the EIS/EIR and the second regards use of the stenographer. In regard to the notice, it is deeply regretted that the commenter did not receive direct notice. The reason is that the notice was published, posted, and sent through direct mail—all adequate means under NEPA and CEQA—but not via e-mail. Information related to the notice of availability as well as scoping meeting materials were also posted on SBFCA's web site (www.sutterbutteflood.org). The sign-in sheet completed by the commenter at the scoping meeting shows only an e-mail address was provided. Again, it is deeply regretted that there was not follow-up with the commenter to keep the commenter informed of the process. To make up for this circumstance, efforts have been made to ensure that the commenter's perspective is heard and considered, including two meetings with SBFCA staff and consultants and consideration of comments submitted by the commenter up to the point of publication of the Final EIS and Final EIR. In regard to the second part of the comment and use of the stenographer, the stenographer was hired for the purpose of taking individual oral comments as an alternative to providing written comments. This was the explicit purpose for and direction provided to the stenographer. The stenographer was not intended to record the meeting, its presentation, or any group dialogue, and no such record is available. This is a customary practice for scoping meetings. However, in light of the frustration over the circumstances from the scoping meeting, USACE and SBFCA's practice was changed for the public meetings on the Draft EIS/EIR and the stenographer was directed to record the meetings in their entirety. The transcripts are included in this document. It must be noted that the commenter's concerns were indeed heard and are reflected directly in the Draft EIS/EIR on page 1-29, Section 1.6.3.5, *River Access for Recreation*, which states: "The Feather River is popular for recreation activities such as fishing, boating, walking, wildlife viewing, and other passive uses. There is demand to increase opportunities for public access to the river corridor." Comment did not necessitate change to the Final EIS.

I3-B

In regard to the first issue about work already completed, it is not subject of this EIS. Second, project money may be used to replace existing gates but no new gates are planned. Comment did not necessitate change to the Final EIS.

Letter I4—Francis Coats, January 9, 2013

Letter I4

-----Original Message-----
From: Francis Coats [<mailto:fecoats@msn.com>]
Sent: Wednesday, January 09, 2013 2:39 PM
To: Jillian Bassett, CSR No. 13619
Cc: FRWLP_Comments
Subject: Transcript of 6/27/11 6:30 pm sutter basin & feather river west scoping meeting

I4-A | This is to confirm that you told me that you would inquire as to what might have happened to the record of the above meeting. The record of this meeting is missing from the eis/eir produced while other scoping comments appear.
Frank Coats 530-701-6116

Francis Coats 3392 Caminito Avenue Yuba City CA (530) 701-6116 fecoats@msn.com
Sent from my Kindle Fire

Response to Letter I4

I4-A

As described in the response to comment I3-A, there is no complete transcript of the meeting. The stenographer present at the meeting was hired for the purpose of taking individual oral comments as an alternative to providing written comments. This was the explicit purpose for and direction provided to the stenographer. The stenographer was not intended to record the meeting, its presentation, or any group dialogue, and no such record is available. Other comments are included from that meeting because they were submitted in written form or because commenters chose to provide individual oral comments to the stenographer. This is a customary practice for scoping meetings. However, in light of the frustration over the circumstances from the scoping meeting, SBFCA's practice was changed for the public meetings on the Draft EIS/EIR and the stenographer was directed to record the meetings in their entirety. The transcripts are included in this document. Comment did not necessitate change to the Final EIS.

Letter I5—Francis Coats, January 9, 2013

Letter I5

-----Original Message-----

From: Francis Coats [<mailto:fecoats@msn.com>]

Sent: Wednesday, January 09, 2013 5:11 PM

To: FRWLP_Comments; chris.elliott@icfi.com

Cc: ben vandermeer; Stan Cleveland cleveland; harold kruger

Subject: Why Frank Coats comments at 6/27/11 6:30 pm scoping meeting were not recorded

Re: Sutter Buttes Flood Control Agency's Feather River West Levee Project
Environmental Process and Documents

Omission from the record of public comments regarding river access and
given within scoping process

Friends:

Early on in the process of planning and developing environmental documents for this project, public meetings were held to give members of the public an opportunity to express their concerns and make their comments regarding the project. These are the four scoping meeting held on June 27, and June 28, 2011. Two meetings were held on June 27 in Yuba City, and two meetings were held on June 28 in Gridley.

When I looked at the record of the scoping meetings held in June of 2011 (see attachment C of the EIS/EIR), early on in the environmental review process, I notice that it contains a reporter's transcript of comments by Bob Barkhouse and Stan Cleveland, apparently given at the 3:30 meeting on June 27, 2011; and comments given by two other persons at meetings in Gridley the next day; but, no record of comments I made at the 6:30 pm meeting in Yuba City on June 27, 2011.

I5-A

I asked the Corps of Engineers, SBFCA, and the consultants what happened and received no reply, so I called the reporter service.

I have heard from Laurie Gallagher, owner of Northern California Court Reporters, as to why my comments at the June 27, 2011, 6:30 pm Yuba City scoping meeting for the Feather River West Levee Project EIS/EIR do not appear in the documentation of the scoping meeting in the EIS/EIR Attachment C. Jillian Bassett, CSR, was present to record the comments made by participants in the meetings. Apparently the person (Ingrid Norgaard of ICF International) who was running the meeting told Bassett to record only what the person running the meeting wanted recorded; and, this person did not request that Bassett record anything from the 6:30 meeting. The consultant running the meeting for ICF International, the Corps of Engineers and the Sutter Butte Flood Control Agency, apparently did not think anything anyone said at the 6:30 meeting was worth recording, considering or responding to.

So, here we are, a year and a half later, reading an EIS/EIR which started with a defective scoping process and which does not consider or respond to substantive comments made by a member of the public at the scoping meeting, and with no record of the comments made. It also looks like this happened because someone made a conscious decision to exclude comments concerning river access from the record of the scoping process and from serious consideration during the remainder of the environmental planning process.



15-A
cont'd

↑
My comments were essentially as follows:

1. The public presently has a right to be on the river and on the land adjacent to the river and below high water mark, for hunting, fishing, picnicking, bird-watching, doing cross-word puzzles, and other recreation pursuits. I was not asking anyone to further develop any of this land. It is fine the way it is.

2. The problem is getting access to the land where it drops below high water mark. I was asking that the project not interfere with the public's access to the land below high water mark - to not install gates and to not lock gates if installed. On further thought, also to keep at least as many ramps as currently exist, and in their current locations.

3. My concern was based on prior experience with Levee District Number One of Sutter County (LD1), a constituent agency of the joint powers agreement which is SBFCA, which installed gates and maintained those gates locked, blocking public access to the Feather River on Starr Bend Road and on Tudor Road, even though those two roads were both formally created public roads. So far as I can tell, LD1 has installed gates and maintains those gates locked on every ramp approaching its levee from the west/dry side, except for the two bridges at Yuba City, the Mosquito Beach trailer park, boat ramp and park in Yuba City, and at Boyd Pump boat ramp. Given that LD1 is the dominant levee district in the project, I am concerned that its policies may be adopted by the joint powers organization.

4. My concern included concern with river access for persons who do not own a boat, trailer and tow-vehicle, who are denied access to much of the river which is available through the use of the established boat ramps for persons with a boat, trailer and tow-vehicle.

5. Essentially, it appears that at least LD1 has taken it upon itself to disregard the rights of the general public, while accommodating those of private landowners on the wet side of the levee, by installing and locking gates to prevent access by the general public while permitting access by private landowners by providing them with keys.

6. When you build or re-work a levee, including possibly parallel ditches, drains and fences, you are going to have an effect on access. When you install or remove ramps, or install gates on ramps, you are going to affect access. The EIS/EIR does not describe what is planned with reference to its effect on access.

So there we have it. An apparently intentionally defective scoping process which fails to record comments regarding river access in order to avoid accountability for a defective planning process and a defective EIS/EIR.

My comments may be addressed and dealt with within the planned time-lines. This is only a draft EIS/EIR, and there may time to fix it. But still, it looks like someone is playing Russian roulette with the public's money and safety. Screwing up an environmental document creates delay. Delay in heavy construction means money. For a levee project, it delay means a longer wait for better flood protection.

Response to Letter I5

I5-A

As described in the response to comments I3-A and I4-A, there is no complete transcript of the meeting. The stenographer present at the meeting was hired for the purpose of taking individual oral comments as an alternative to providing written comments. This was the explicit purpose for and direction provided to the stenographer. The stenographer was not intended to record the meeting, its presentation, or any group dialogue, and no such record is available. Other comments are included from that meeting because they were submitted in written form or because commenters chose to provide individual oral comments to the stenographer. This is a customary practice for scoping meetings. However, in light of the frustration over the circumstances from the scoping meeting, USACE and SBFCA's practice was changed for the public meetings on the Draft EIS/EIR and the stenographer was directed to record the meetings in their entirety. The transcripts are included in this document. It must be noted that the commenter's concerns were indeed heard and are reflected directly in the Draft EIS/EIR on page 1-29, Section 1.6.3.5, *River Access for Recreation*, which states: "The Feather River is popular for recreation activities such as fishing, boating, walking, wildlife viewing, and other passive uses. There is demand to increase opportunities for public access to the river corridor." As described in the response to comment I3-B, SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. As far as SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt an MOU that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study. Comment did not necessitate change to the Final EIS.

Letter I6—Francis Coats, January 9, 2013



Response to Letter I6

I6-A

As described in the response to comments I3-A, I4-A, and I5-A, there is no complete transcript of the meeting. The stenographer present at the meeting was hired for the purpose of taking individual oral comments as an alternative to providing written comments. This was the explicit purpose for and direction provided to the stenographer. The stenographer was not intended to record the meeting, its presentation, or any group dialogue, and no such record is available. Other comments are included from that meeting because they were submitted in written form or because commenters chose to provide individual oral comments to the stenographer. This is a customary practice for scoping meetings. However, in light of the frustration over the circumstances from the scoping meeting, USACE and SBFCA's practice was changed for the public meetings on the Draft EIS/EIR and the stenographer was directed to record the meetings in their entirety. The transcripts are included in this document. It must be noted that the commenter's concerns were indeed heard and are reflected directly in the Draft EIS/EIR on page 1-29, Section 1.6.3.5, *River Access for Recreation*, which states: "The Feather River is popular for recreation activities such as fishing, boating, walking, wildlife viewing, and other passive uses. There is demand to increase opportunities for public access to the river corridor." Comment did not necessitate change to the Final EIS.

Letter I7—Francis Coats, January 19, 2013

Letter I7

From: Francis Coats [<mailto:fecoats@msn.com>]
Sent: Saturday, January 19, 2013 12:21 PM
To: m.bessette@sutterbutteflood.org; m.inamine@sutterbutteflood.org; chris.elliott@icfi.com;
frwlp_comments@usace.army.mil
Subject: FRWLP

Thank you for the chance to speak to you at the meeting in Yuba City.

I7-A

I am left with a sense that nothing was said. Mr. Inamine discussed the need for the levee repairs, and the focus of his work on getting those repairs done. I agreed that the repairs were necessary and urgently necessary. I said the project, particularly the installation of gates in light of the certain knowledge that DWR, LD1 and LD9 would maintain any gates installed in a locked closed position, would have a substantial effect on public access to a public use area/recreational resource ("the vast majority of the river," in the words of the document). None of you said anything about why gates were needed to achieve flood protection purposes, or under what authority they might be locked closed.

I7-B

From my perspective, it appears that private landowners of land in the river bottoms are trying to achieve their private interest in excluding the general public from the river and its banks by adding them to the FRWLP and hoping no one notices that the private interest has nothing to do with flood protection.

I7-C

I object to the adoption of the document in its current form: because it does not identify the river and banks of the river as a public use area and a recreational resource; because it does not recognize the practically certain cumulative effect of installing gates at the end of construction when prior experience shows that DWR, LD1 and LD9 will lock those gates closed to exclude the public from the vast majority of the river and its banks; and because it does not discuss mitigation of the adverse effect, as for example not installing the gates or locking the gates in an open position except when they are closed pursuant to a proper procedure taken by an agency authorized to regulate access to and use of the river and its banks.

I7-D

In addition, if still don't have a satisfactory explanation of how it came about that my comments at scoping about the the basis for the general public's right to be on the river and its banks did not make it into the record and were not discussed; and, how it came about that the only person who appears the record to have requested notice of availability of the document did not get notice.

Please contact me if you would like to discuss this.

Frank Coats, 3392 Caminito Avenue, Yuba City, CA 95991 530-701-6116, fecoats@msn.com

Response to Letter I7

I7-A

It is agreed that the focus of the project is flood-risk reduction and the repairs are urgently necessary. Because of this focus, the project is intended to be neutral to recreation. As discussed in the response to comment I3-B, SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. As far as SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt an MOU that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. Comment did not necessitate change to the Final EIS.

I7-B

As stated in the response to comment I3-B, SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. As far as SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt a memorandum of understanding (MOU) that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. Comment did not necessitate change to the Final EIS.

I7-C

The commenter's concerns are reflected directly in the Draft EIS/EIR on page 1-29, Section 1.6.3.5, *River Access for Recreation*, which states: "The Feather River is popular for recreation activities such as fishing, boating, walking, wildlife viewing, and other passive uses. There is demand to increase opportunities for public access to the river corridor." As discussed in the response to comment I3-B, SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. As far as SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt an MOU that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. Comment did not necessitate change to the Final EIS.

I7-D

As described in the response to comments I3-A, I4-A, I5-A, and I6-A, there is no complete transcript of the meeting. The stenographer present at the meeting was hired for the purpose of taking

individual oral comments as an alternative means to providing written comments. This was the explicit purpose for and direction provided to the stenographer. The stenographer was not intended to record the meeting, its presentation, or any group dialogue, and no such record is available. Other comments are included from that meeting because they were submitted in written form or because commenters chose to provide individual oral comments to the stenographer. This is a customary practice for scoping meetings. However, in light of the frustration over the circumstances from the scoping meeting, SBFCA's practice was changed for the public meetings on the Draft EIS/EIR and the stenographer was directed to record the meetings in their entirety. The transcripts are included in this document. In regard to the notice, it is deeply regretted that the commenter did not receive direct notice. The reason is that the notice was published, posted, and sent through direct mail—all adequate means under NEPA and CEQA—but not via email. The sign-in sheet completed by the commenter at the scoping meeting shows only an e-mail address was provided. Again, it is deeply regretted that there was not follow-up with the commenter to keep the commenter informed of the process. To make up for this circumstance, efforts have been made to ensure that the commenter's perspective is heard and considered, including two meetings with SBFCA staff and consultants and consideration of comments submitted by the commenter up to the point of publication of the Final EIS and Final EIR. USACE will ensure that the commenter is included on the mailing list for future notice regarding this project and the Sutter Basin Feasibility Study. Comment did not necessitate change to the Final EIS.

Letter I8—Francis Coats, January 23, 2013

Letter I8

From: Francis Coats [<mailto:feecoats@msn.com>]
Sent: Wednesday, January 23, 2013 8:33 AM
To: Chris Elliott; m.bessette@sutterbutteflood.org; frwlp_comments@usace.mil
Subject: Fwd: RE: FRWLP

Appologies for premature sending of prior message. I am writing on a small device and it is too easy to hit the wrong key.

I meant to add:

However, if SBFCA now wants to raise maintenance and security, it needs to do so with detailed facts and quantified statements. With merely "maintenance and security" given as reason to delay meaningful discussion, you have left me with only the obvious to say.

SBFCA's vulnerable assets, pumps and equipment, are on the dry side of the levee and not exposed to any additional risk by public access to the wet side of the levee. A person who wants to drive on the unprotected levee bank can do so by driving up the dry side so public access to the river side over established ramps does not particularly enable this damage.

SBFCA's increased maintenance costs would be limited to increased wear on the ramps giving access. These ramps are already being used by private landowners for moving equipment. The need for increased maintenance seems speculative. If SBFCA believes it is significant, then details of the anticipated use and cost of maintenance should be provided.

I8-A

The risks which owners of property endure when the general public has access are significant, but they are not within SBFCA's mission. They don't affect the integrity of the levee and they are subject to regulation by the county or perhaps State Lands Commission, not SBFCA. Further they must accomodate the rights of the general public to be on the river and the adjacent land below high water mark.

While these are issues subject to future discussion, they are also issues which must be dealt with in the EIR. They are also issues which until your note seemed to well within the discussion as outlined by SBFCA's statements and displays, and by the public notices given during the process. If SBFCA now wants to change the scope of the EIR process perhaps that should be made clear by a new set of public notices.

Again. These questions and issues are within the scope of the EIR process as described so far, were raised during the scoping process and the draft EIR should have had a meaningful discussion of them. If "maintenance and security," are issues today, I don't understand why they are not discussed in the draft EIR.

Looking forward to hearing from Chris.

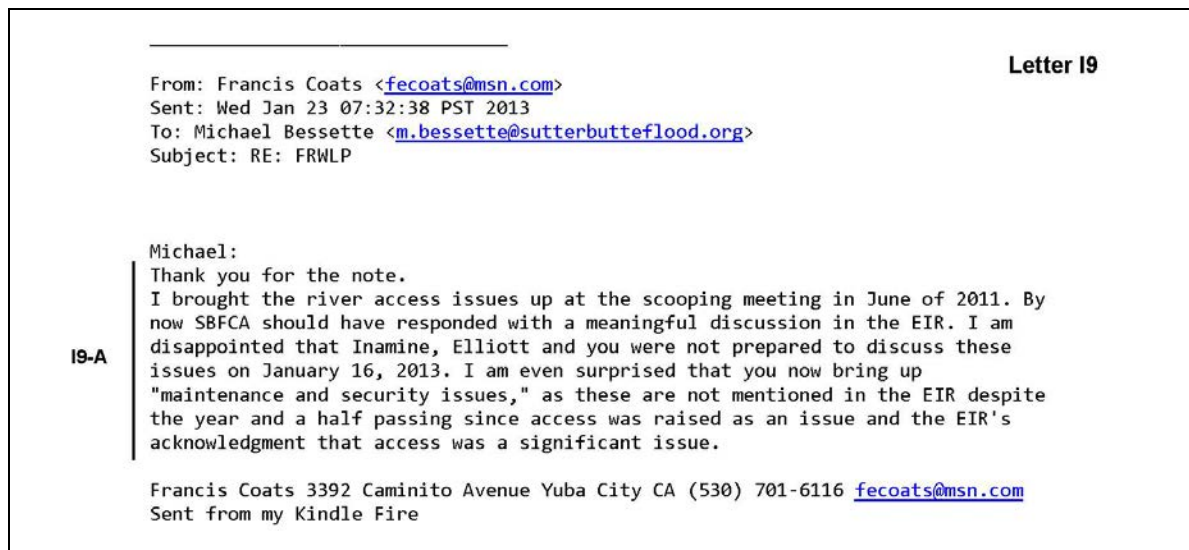
Frank Coats

Response to Letter I8

I8-A

The fundamental analytical premise under NEPA and CEQA is to assess the change that would occur as a result of the project. As described in the response to comment I3-B, SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. As far as SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt an MOU that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study. Comment did not necessitate change to the Final EIS.

Letter I9—Francis Coats, January 23, 2013



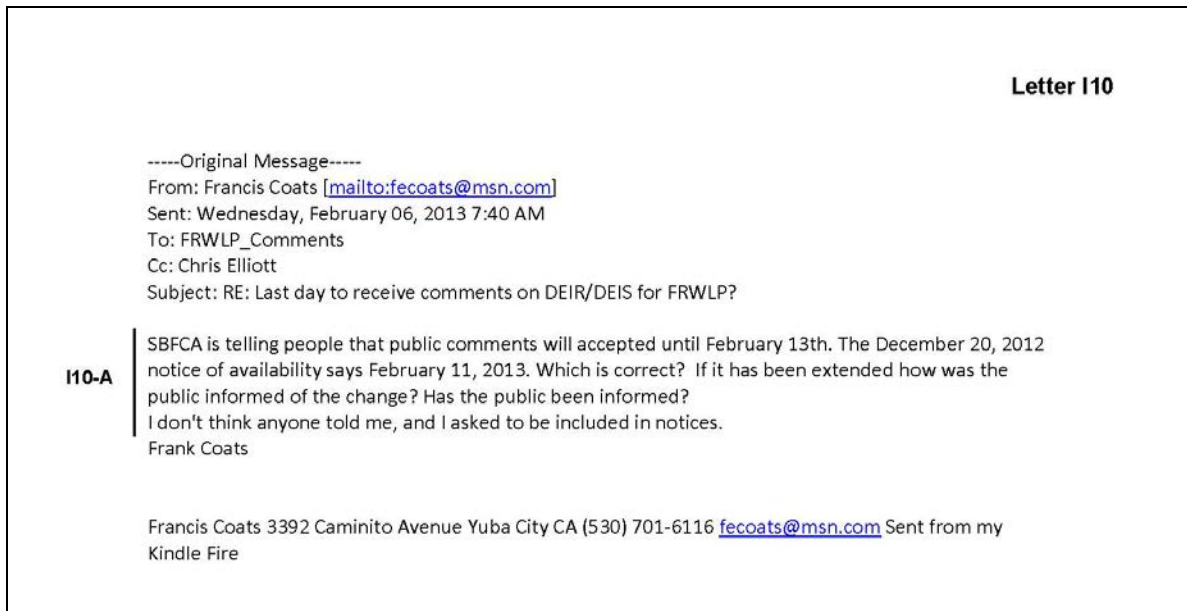
Response to Letter I9

I9-A

Starting with the big-picture perspective, as far as SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt an MOU that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study. It must be noted that the commenter's concerns were indeed heard and are reflected directly in the Draft

EIS/EIR on page 1-29, Section 1.6.3.5, *River Access for Recreation*, which states: “The Feather River is popular for recreation activities such as fishing, boating, walking, wildlife viewing, and other passive uses. There is demand to increase opportunities for public access to the river corridor.” As described in the response to comment I8-A, the fundamental analytical premise under NEPA and CEQA is to assess the change that would occur as a result of the project. SBFCA does not plan to limit public access as part of this project or any other action. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. Comment did not necessitate change to the Final EIS.

Letter I10—Francis Coats, February 6, 2013



Response to Letter I10

I10-A

From a big-picture perspective, comments are being considered by USACE and SBFCA up to the point of the final decision being made by each respective agency, and comments are being responded to in the Final EIS and Final EIR up to the point of publication. Specific to the comment, there had been an unintended discrepancy in the comment close date between the NEPA and CEQA notifications due to the administrative processes associated with each notice (February 13 and February 11, respectively). Consequently, the comment period was corrected on the CEQA side to match the NEPA close date of February 13. Per CEQA requirements, this correction was filed with the State Clearinghouse but was not distributed via individual noticing. As discussed above, in practice and reality, comments have continued to be accepted and responded to up to the point of publication of the Final EIS and Final EIR. Comment did not necessitate change to the Final EIS.

Letter I11—Francis Coats, February 7, 2013

Letter I11

-----Original Message-----
From: Francis Coats [<mailto:fecoats@msn.com>]
Sent: Thursday, February 07, 2013 8:17 AM
To: John Cain; FRWLP_Comments; Chris Elliott
Cc: Francis Edward Coats, Esq; David Steindorf
Subject: FRWLP Re: FW: Feather River DEIR changes to comment deadline

I11-A Friends
As I have adequately whined already, written notice of availability was sent to me late. That is at the time I received written notice of the comment deadline being 2/11, someone had already changed it the date to 2/13. The information provided to all the people and entities to whom notice as sent is wrong? So someone hand picked who to tell about the correction? I think someone owes me an explanation of how is that SBFCA / USACE knew it sent incorrect information to me and to others, and made no effort to correct it.

Francis Coats 3392 Caminito Avenue Yuba City CA (530) 701-6116 fecoats@msn.com Sent from my Kindle Fire

Response to Letter I11

I11-A

As described in the response to comment I10-A, from a big-picture perspective, comments are being considered by USACE and SBFCA up to the point of the final decision being made by each respective agency, and comments are being responded to in the Final EIS and Final EIR up to the point of publication. There had been an unintended discrepancy in the comment close date between the NEPA and CEQA notifications due to the administrative processes associated with each notice (February 13 and February 11, respectively). Consequently, the comment period was corrected on the CEQA side to match the NEPA close date of February 13. Per CEQA requirements, this correction was filed with the State Clearinghouse but was not distributed via individual noticing. Specific to the comment, the discrepancy was not known until after the close date had been communicated because the noticing was processed differently between the State Clearinghouse in Sacramento for CEQA and the Environmental Protection Agency in Washington, DC, for NEPA. As discussed above, in practice and reality, comments have continued to be accepted and responded to up to the point of publication of the Final EIS and Final EIR. Comment did not necessitate change to the Final EIS.

Letter I12—Francis Coats, February 11, 2013

Letter I12

-----Original Message-----

From: Francis Coats [mailto:fecoats@msn.com]

Sent: Monday, February 11, 2013 12:45 PM

To: FRWLP_Comments

Subject: RE: FRWLP Re: FW: Feather River DEIR changes to comment deadline

Jeff:

We have almost beaten this dead horse to a second death, but remember, you guys did not send me notice in the first round. I think you sent me notice and a copy of the CD after I e-mailed you on Sunday, December 23, 2012, asking why I had not received notice of availability. So, you guys knew the date had changed to the 13th when you sent me notice indicating it was the 11th. I may still have the envelope you sent the Cd and notice in, so I might have better confirmation of the timing.

I12-A

I really think you owe mailed, or at least e-mailed, notice to the people who received the written notice, and, I don't think sending 400 post cards to an established mailing list is too burdensome given the importance of the subject to the people involved. Otherwise it looks like you treat one set of interested parties better than others: the people who regularly read the federal register over the people who ask for notice at the public hearings.

Response to Letter I12

I12-A

The comment is understood and it is regretted that the commenter did not receive notice in the first round. The reason for this is that the sign-in sheet from the public scoping meeting shows only an e-mail address and not a physical address for the commenter. As described in response to comment I10-A and I11-A, from a big-picture perspective, comments are being considered by USACE and SBFCA up to the point of the final decision being made by each respective agency, and comments are being responded to in the Final EIS and Final EIR up to the point of publication. There had been an unintended discrepancy in the comment close date between the NEPA and CEQA notifications due to the administrative processes associated with each notice (February 13 and February 11, respectively). Consequently, the comment period was corrected on the CEQA side to match the NEPA close date of February 13. Per CEQA requirements, this correction was filed with the State Clearinghouse but was not distributed via individual noticing. Specific to the comment, the discrepancy was not known until after the close date had been communicated to the commenter because the noticing was processed differently between the State Clearinghouse in Sacramento for CEQA and the Environmental Protection Agency in Washington, DC, for NEPA. As discussed above, in practice and reality, comments have continued to be accepted and responded to up to the point of publication of the Final EIS and Final EIR. Comment did not necessitate change to the Final EIS.

Letter I13—Francis Coats, February 13, 2013

Letter I13

-----Original Message-----

From: Francis Coats [<mailto:fecoats@msn.com>]

Sent: Wednesday, February 13, 2013 5:07 PM

To: FRWLP_Comments

Cc: Dave Steindorf; John Cain; Mary Hays; Tina Bartlett; jennifer.lucchesi@slc.ca.gov;
thomaswilcox@digitalpath.net; ereimondo@americanrivers.org; megan@americanwhitewater.org;
danielle@riversforchange.org; john@riversforchange.org; info@californiacavalry.us;
bhackamack@frontier.com; grace95991@hughes.net; jss1934@yahoo.com; ajames@sc.edu;
eric@maidu.com; raymcreynolds@yahoo.com; hsweetser@aol.com; brent.handley@tpl.org;
sharman07@comcast.net; alan@alarsonsafety.com; hkruger@appealdemocrat.com;
staff@tuolumne.org; johnsonsbait@svix.com; jpokrandt@riverpartners.org; josh2th@aol.com;
patrick@tuolumne.org; frydee@comcast.net; ahurtado@ou.edu; ccreekin@yahoo.com;
mphogan@ucdavis.edu

Subject: Frank Coats' Comments on FRWLP DEIR/DEIS

Please find attached my written comments on the Feather River West Levee Project Draft Environmental Impact Report/Statement.

In general my comments request that the document include a description of the recreational navigable servitude giving members of the general public the right to be on the river and on the temporarily dry river bed up to the ordinary annual high water mark; and, that the project not interfere in the general public taking that access. In particular, I do object to any suggestion that this project, cumulatively with the prior history of levee construction, will not have a significant adverse effect on public access to a major recreational resource. This project will, at least, reinstall gates where gates currently exist, and Levee District Number One of Sutter County and the Department of Water Resources will lock those gates.

Frank Coats, 3392 Caminito Avenue, Yuba City, CA 95991 (530) 701-6116, fecoats@msn.com

Francis E. Coats
3392 Caminito Avenue
Yuba City, CA 95991
(530) 701-6116
fecoats@msn.com

**Letter I13
Attachment**

January 19, 2013

U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814
Contact: Jeff Koschak

Sutter Butte Flood Control Agency
1227 Bridge Street, Suite C
Yuba City, CA 95991
Contact: Mike Inamine

ICF International
640 K Street, Suite 400
Sacramento, CA 95814
Contact: Chris Elliott
916.737.3000

(Sent by Email to Comments@FRWLP_usace.army.mil)

Comments on the Feather River West Levee Project (FRWLP), Draft Environmental Impact Statement /
Environmental Impact Report (EIS/EIR), dated December 2012

Introduction:

I13-A

I object to the adoption of the EIS/EIR in the form made available for public comment for the reasons given below. I am asking that you describe the navigable servitude in the document where you discuss laws affecting the project; that you include the lands subject to the navigable servitude in your consideration of the effect of the project on public lands and access to recreational resources; and, that your plan reflect steps taken to assure that any gates you install are not used to obstruct public access to the river and the land along the river, except when ordered closed by an appropriate agency following an appropriate process. This would have no effect on the flood-safety aspects of the project.

I13-B

Members of the general public have a right to be on the river and on the dry river bed up to the ordinary high water mark. The Sutter Butte Flood Control Agency and each of its constituent agencies has an obligation to not unnecessarily interfere with public access to the river and its bed. The construction of the levees generally obstructed access between the dry lands and the wet lands. This obstruction is mitigated by the ramps providing access across the levees. This project includes installing gates on ramps which otherwise provide access across the levees between the dry land and the wet land. Prior experience with Department of Water Resources and Levee District One of Sutter County indicates that once the gates are installed, the levee maintenance organization will lock the gates, obstructing public access to the river and the river bed. It also appears that these entities will permit access by landowners



	Francis Coats' Comments on Feather River West Levee Project (FRWLP) EIS/EIR, January 19, 2013 Page: 2
I13-B cont'd	to the river bottoms, while excluding the general public. The SBFCA and the levee maintenance organizations have no authority, and no need, to obstruct the general public's access to the navigable servitude lands.
	<u>Substantive Comments:</u>
I13-C	<u>The draft Environmental Impact Statement and Environmental Impact Report is inadequate in that it fails to identify the lands adjacent to the Feather River and below average high water mark as a public use area and as a recreational resource; and, because the EIS/EIR fails to adequately deal with the adverse effects of the project, direct and cumulative, on public access to the resource.</u>
I13-D	<ol style="list-style-type: none"> 1. The Feather River is navigable from its mouth on the Sacramento to Thermalito Afterbay, and in any case throughout the Feather River West Levee Project area. Members of the general public have the right to navigate and to exercise the incidents of navigation in a lawful manner at any point below high water mark within the project area. <ol style="list-style-type: none"> a. Members of the public have the right to navigate and to exercise the incidents of navigation in a lawful manner at any point below high water mark on waters of this state which are capable of being navigated by oar or motor-propelled small craft. The incidents of navigation include but are not limited to boating, swimming, fishing, hunting and all recreational purposes. <i>People ex rel. Baker v. Mack</i>, (1971) 119 Cal.App.3d 1040. A waterway usable only for pleasure boating is nevertheless a navigable waterway and protected by the public trust (citations omitted) <i>National Audubon Society v. Superior Court of Alpine County</i> (1983) 33 Cal.3d 419, footnote 17. In California "high water mark" means the ordinary high water mark <i>Ross v. Burkhard Inv. Co.</i>, (1928) 90 Cal.App. 201; and, ordinary high water mark means the average level of high water attained by the river in its annual seasonal flow <i>People v. Ward Redwood</i> (1964) 225 Cal.App.2d 285. b. The public agencies involved in this project, including the SBFCA and each of its constituent agencies, are subject to the public trust doctrine. The trust is not merely a passive doctrine, but there is an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect the public trust uses whenever feasible." "Unnecessary and unjustified harm to trust interests" should be avoided. <i>National Audubon Society v. Superior Court</i> (1983) 33 Cal.3d 419, 446-447. This test is applied more stringently in the context of the navigable servitude than it is in water allocation. See Applying the Public Trust Doctrine to River Protection, by Jan S. Stevenson, University of California at Davis, June 9, 2004, printed at California Water Plan Update 2005, Volume 4, pp. 4-393. c. The Feather River is navigable by oar or motor powered small craft throughout the project area. There are public boat ramps maintained at SR 162 near Gridley, Pennington Road near Live Oak, Marysville at River Front Park, Yuba City at Mosquito Beach, south of Yuba City at Boyd Pump, and south of Marysville at Starr Bend. In

Francis Coats' Comments on Feather River West Levee Project (FRWLP) EIS/EIR,
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- I13-D**
cont'd
- general the EIS/EIR confirms recognition of the use of the Feather River throughout the project area for recreational boating.¹
- d. As a consequence of the above and supported by in the EIS/EIR at 3.14.2.2, the Feather River and the banks of the Feather River up to their average high water mark are a single continuous public use area and significant recreational resource.²
- I13-E**
2. The installation of gates on the levee will, cumulatively have a significant adverse effect on public access to the recreational resource and public use area. Access to the Feather River from the dry side of the levee is obstructed by the levees. It is illegal to climb the levees other than at ramps, because climbing the unprotected bank of the levee may cause erosion and damage the levee. This obstruction of access to the river and its banks is mitigated by the presence of ramps providing a means of crossing between the lands on the wet side of the levee and lands on the dry side of the levee. These ramps generally are currently obstructed by gates which are almost always maintained locked closed by levee maintenance organizations (Department of Water Resources (DWR), Levee District Number One of Sutter County (LD1), Levee District Number Nine of Sutter County (LD9)). Each of these entities is a California public agency. DWR is an "authorizing stakeholder" in the project, and LD1 and LD9 are constituent parties to the Sutter Butte Flood Control Agency joint powers agreement. The levee, gates and the practices of maintaining the gates locked closed are pre-existing facts which must be considered a cumulative with the effects of this project. The pre-existing practice of keeping the gates locked closed is a good indicator that the levee maintenance organizations will keep the gates locked closed after the project is completed, which also must be considered as a cumulative effect of the project.³
- I13-F**
3. The SBFCA and the levee maintenance organizations have no authority to determine whether or not the public should have access to the river and its bed. The SBFCA exists to refurbish the levees for flood safety. The levee maintenance organization exist to maintain the levees for flood safety. Neither has any authority to regulate public recreational use of the river and the river bed. This authority is with State Lands Commission, and to some extent the County.
- I13-G**
4. The SBFCA and the levee maintenance organizations have no need to keep the public out of the river and river bed. The presence of the general public on the river and on the river bottom lands on the wet side of the levee presents no threat to the integrity of the levees. There is no

¹ Kayaking and canoeing is occasionally favored in portions of the river. Boat ramps are distributed approximately every 7 miles along the Feather River between Thermalito Afterbay and the Sutter Bypass. ... Fishing is another popular recreation activity throughout portions of the corridor. Anglers fish from boats and the shore throughout the reaches of the river. 3.14.2.2.

² At 3.4.2.3 (3.4-7) the EIS/EIR states that the Feather River is considered navigable for the 28 miles from the mouth of the river to the railroad bridge at Marysville. This is misleading, and is not true for purposes of discussing the right of the general public to be on the river and on the banks of the river to the average high water mark. The same paragraph states that there are no boat ramps in the project area, when the Boyd Pump boat ramp immediately adjoins the water side toe of the levee.

³ The document already recites that access to the river is restricted and controlled throughout its length, with some access provided at parks, boat ramps, and Department of Fish and Wildlife units; and, that there is very little access of any sort north of Yuba City.

Francis Coats' Comments on Feather River West Levee Project (FRWLP) EIS/EIR,
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Page: 4

I13-G
cont'd

equipment maintained on the wet side of the levee. Those people who would drive up the levee banks may do so whether or not the general public has access to the river bottoms.

I13-H

5. The maintenance of gates on the levee has an adverse effect on environmental justice issues.
The entire river and its banks are accessible to those with boats, boat trailers and tow vehicles. Those without these assets must rely on access from the land side of the levee. Blocking land side access affects poor people and disabled people much more that it affects able bodied people who can afford boats, trailers and tow vehicles.

I13-I

6. In obstructing general public access, the gates are and will be used to discriminate between persons owning land in the river bottoms and members of the general public. In general the levee maintenance organizations provide keys to persons owning land in the river bottoms, and do not provide keys to the general public. As the general public has right to be in the river bottoms for recreational purposes, the discriminatory practice is not justified.

I13-J

7. The SBFCA simply does not have the information necessary to determine whether there are any legal barriers to allowing the public to cross the levees. The SBFCA simply has not done the work of reviewing and interpreting title documents, the establishment of roads, and the dedication of routes of access, that would serve as a bases for determining, at any particular point on the levee, that the public cannot be allowed to cross. There is no discussion of river access rights other than those at parks, DFW wildlife areas and boat ramps. At 3.14.2.1, (3.14-3), the EIS/EIR identifies access routes to the river as including the units of the FRWA, local parks, and the Audubon sanctuary. The EIS/EIR neglects to mention public roads leading to the river, including Starr Bend Road and Tudor Road; and neglects to discuss even the possibility of the existence of routes established by dedication. This is understandable in the context of LD1's gating and locking of Starr Bend Road and Tudor Road absent any legal basis, and its subsequent denial of the public nature of these roads. Further, the EIS/EIR does not discuss the fact that in some areas the wet side levee toe is below average high water mark, suggesting that if member of the public can get across the levee, he or she will then be within the navigable servitude area. Further, the facts of the obstruction of Starr Bend Road and Tudor Road by Levee District Number One suggests that the credibility of a levee district in reciting that there is no access may be in question. Certainly the credibility of LD1 is in question.⁴ Also note that the statement that there are no boat ramps in the project area appears to be false, as the Boyd Pump boat ramp is immediately adjacent to the existing levee itself.

At 3.14-4 the EIS/EIR states:

⁴ 3.4.2. Navigation in the project area is confined to the Feather River, which runs adjacent to the project levees on their eastern side. The Feather River is considered navigable for the 28 miles from the mouth of the river to the railroad bridge at Marysville. The width and depth of the river vary greatly, and traffic is limited to recreational watercraft. There are no marinas or boat ramps in the project area. However, Yuba City has a boat ramp between the levee and the river, where the levee is set back several hundred feet from the water, and there is also a boat ramp at the end of Pennington Road that is between the project area and the river. (Note, Pennington, Mosquito Beach, and Boyd Pump boat ramps are on the right bank, between the river and the levee.)

Francis Coats' Comments on Feather River West Levee Project (FRWLP) EIS/EIR,
January 19, 2013
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I13-J
cont'd

Fishing is another popular recreation activity throughout portions of the corridor.
Anglers fish from boats and the shore throughout the reaches of the river.
At 3.14-9 and 3.14.10 the EIS/EIR states:
There would be no change in permanent access since levee access is restricted and controlled for the vast majority of the project area.

To the extent that levee access is restricted and controlled this is largely by the levee maintenance organizations, (DWR, LD1 and LD9), each a DWR is an authorizing stakeholder and LD1 and LD 9 are constituent members of SBFCA. Public agencies, such as DWR, LD1 and LD9, as well as SBFCA, have a legal obligation to protect the public's interest in the navigable servitude and in access to the river.

I13-K

8. The EIS/EIR fails to identify what access there may be, while it states that there is little public access north of Yuba City, and that access is restricted and controlled throughout the vast majority of the project area. The EIS/EIR is not specific as to what these statements means. I would agree that in fact access is obstructed by locked gates and no trespassing signs. I would not agree that these are legally enforceable without a case by case investigation involving a review of the state of real property title, determination of the areal extent of the navigable servitude in the location, and a review of the prior history of public use of the route. LD1 obstructs Starr Bend Road even though LD1 is aware that Starr Bend Road is a formally established county road. The presence of a locked gate or a no trespassing sign is not a reliable indication that the route is not legally viable. However, the continued obstruction of a route tends to discourage public use and to make it more difficult to re-open the route.

I13-L

9. Any adverse effect on recreation and access to recreational areas could be mitigated by continuing in place the current ramps or functional equivalents in the approximate same locations; and, by not erecting gates on cross-levee ramps; or, by locking the gates in an open position.

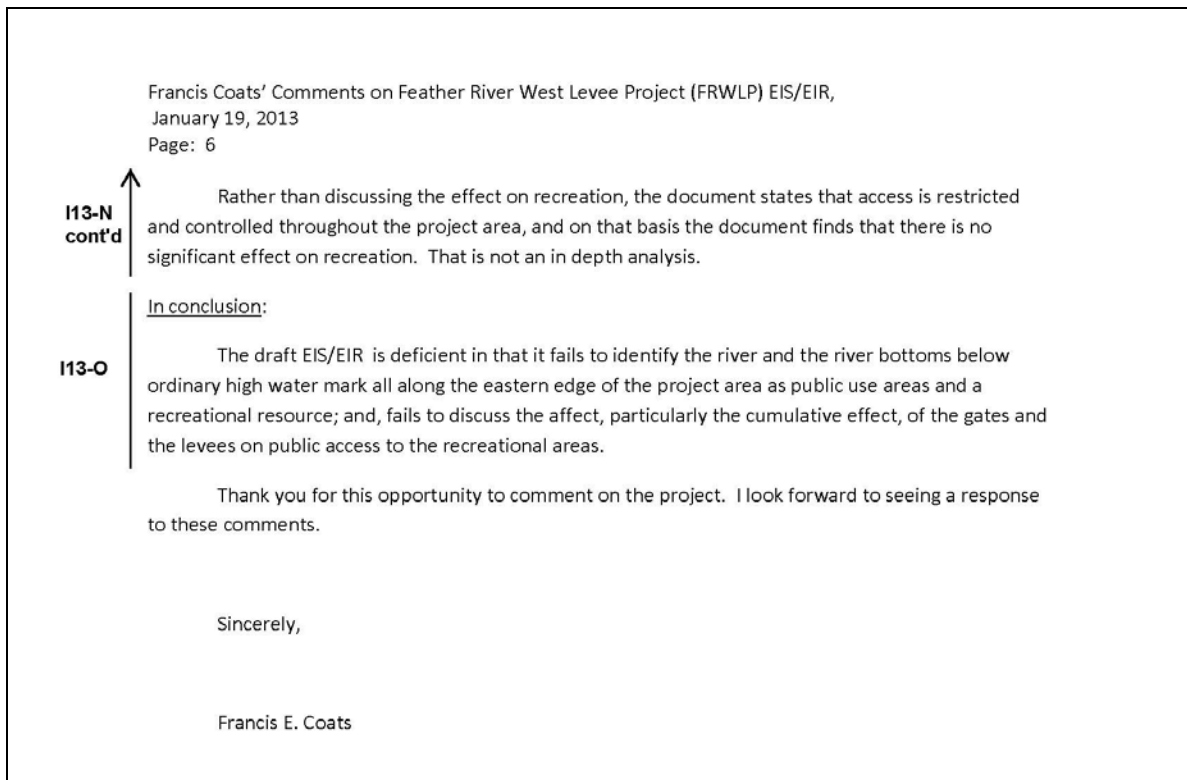
I13-M

10. Of particular concern are the ramp at Morse Road, the two ramps from the levee near Morse Road to the Morse Road Unit of the Feather River Wildlife Area, and the levee-top road connecting these ramps. The Morse Road Unit is open for public use. It is served by these ramps. If they are not maintained in place, and if travel over them and the levee top road that connects them is not continued, the public will have no access to the Feather River, the banks of the river, and the bought, paid for, and formally established public wildlife area.

I13-N

11. The notice for the FRWLP printed in the Federal register in 2011 indicated that the EIS/EIR would address recreation (see appendix b, attachment a):

b. Significant issues to be analyzed in depth in the environmental documents include effects on hydraulics, wetlands and other waters of the U.S., vegetation and wildlife resources, special-status species, aesthetics, cultural resources, recreation, land use, fisheries, water quality, air quality, transportation, and socioeconomics; and cumulative effects of related projects in the study area.



Response to Letter I13

I13-A

As described in the response to comment I2-C, generally, it is agreed that the public has the right to use of the river and that the Feather River is navigable by small, recreational craft. It is further acknowledged that although there are public facilities available for providing access to the river corridor, access to the river is limited at certain points along the river corridor by gates, lack of signage, and lack of developed access points.

However, the proposed project does not contemplate any change to the current public access regime, except in temporary adaptations for safety. As further described in the response to comment I2-C, the public's right to access the Feather River corridor is not unlimited, and as a practical matter the public's ability to access the corridor will not change as a result of the proposed project. SBFCA does not have responsibility to address existing issues as part of its proposed project, the scope of which includes only flood risk-reduction measures to address documented levee deficiencies according to Federal and state criteria.

SBFCA does not plan to limit public access as part of this project or any other action. From the larger perspective of SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA has committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt a memorandum of understanding (MOU) that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study.

With respect to the specific comment regarding gates, the FRWLP proposes to replace gates in-kind that would be affected by the project and no new gates are proposed. However, the project does not propose to change the manner in which these gates are operated and therefore there would be no change to the existing condition as a result of the project and the project would have no direct or cumulative effect. The commenter's concerns are understood but are out of the scope of the FRWLP and its EIS/EIR. However, as stated previously, SBFCA is committed to investigating public access beyond the FRWLP as demonstrated through adoption of the MOU. In regard to the specific elements of the comment, relevant text has been added to the Final EIS and EIR under Section 3.14.2.1, *Regulatory Setting*, applying language from both the U.S. and California constitutions establishing navigable servitude.

I13-B

Please refer to the response to comment I13-A.

I13-C

Please refer to the response to comment I13-A.

I13-D

It is agreed that the Feather River is navigable, depending on flow in the river, the type of craft, and skill of the operator. For the purposes of Section 10 of the Rivers and Harbors Act, the Feather River is considered navigable up to the Marysville Railroad Bridge (this information can be found at <http://www.spk.usace.army.mil/Missions/Regulatory/Jurisdiction/NavigableWatersoftheUS.aspx>). Beyond Section 10, it is well established that the Feather River is navigable in practice by small recreational craft throughout the study area (with Thermalito Afterbay as the northern project extent) and there are public boating facilities to support such use. For the remainder of the comment, please refer to the response to comment I13-A. Comment did not necessitate change to the Final EIS.

I13-E

Please refer to the response to comment I13-A.

I13-F

As discussed elsewhere in this response to comments, the FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. These types of temporary limitations on public access are consistent with the right of the public to access the State's navigable rivers. See, e.g., *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 523-526. Because the fundamental analytical premise under NEPA and CEQA is to assess the change that would occur as a result of the project, the commenter's concerns about the existing access conditions on the site are beyond the scope of this review. SBFCA remains committed to investigating opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt an MOU that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. As further demonstration of commitment

toward advancing recreation, SBFCA also commissioned and completed a recreation study as part of the Sutter Basin Feasibility Study. Comment did not necessitate change to the Final EIS.

I13-G

Please refer to the response to comment I13-F.

I13-H

Please refer to the response to comment I13-F.

I13-I

Please refer to the response to comment I13-F.

I13-J

Please refer to the response to comment I13-A. SBFCA acknowledges that there are some points of access along the levees, and other points along the levees where access is restricted. Nonetheless, because no part of the project contemplates restricting permanent access beyond the current status quo, this access regime is part of the project setting, and does not require additional analysis under NEPA or CEQA. Similarly, as to the commenter's concerns about the "possibility of routes established by dedication" that allow access to the levee, the commenter's concerns are understood but are out of the scope of the FRWLP and its EIS/EIR, which is focused solely on flood-risk reduction measures, not on instituting or establishing new methods of access.

SBFCA acknowledges that the State of California holds all of its navigable waterways and the lands lying beneath them "as trustee of a public trust for the benefit of the people," and that agencies are to manage these lands in a fashion consistent with that authority. *Colberg, Inc. v. State ex rel. Dept. of Public Works* (1967) 67 Cal.2d 408, 417. SBFCA additionally acknowledges that a public agency's power to regulate navigable waterways within the terms of the public trust is absolute except as limited by the paramount supervisory power of the Federal government over navigable waters. *Colberg, Inc. v. State ex rel. Dept. of Public Works* (1967) 67 Cal.2d 408, 417. A public agency may regulate the public's use of a navigable waterway in favor of other public trust purposes, including environmental needs. *Carstens v. California Coastal Com.* (1986) 182 Cal.App.3d 277, 289. A public agency's efforts to reclaim land and provide for flood risk management are one such permissible public trust purpose. *Gray v. Reclamation District No. 1500* (1917) 174 Cal. 622, 637. Here, to the extent that access is temporarily limited, it is within SBFCA's authority to do so.

In regard to specific issues in this comment, it should be noted that the ordinary high water mark (OHWM) does not engage the levee toe within the study area. Based on topography and the width of the floodplain in the study area, the OHWM as regulated by USACE is a considerable distance from the levee for the vast majority of the study area. The commenter is correct that there were inconsistencies between Chapter 3.4 and Section 1.14 regarding boating facilities. The text in Section 3.4.2.3 has been corrected (page 3.4-7) and the comment pointing to the inconsistency is appreciated.

I13-K

Please refer to the response to comment I13-A.

I13-L

Please refer to the response to comment I13-A.

I13-M

Please refer to the response to comment I13-A.

I13-N

Please refer to the response to comment I13-A.

I13-O

Please refer to the response to comment I13-A.

Letter I14—Francis Coats, March 2, 2013

Letter I14

-----Original Message-----

From: Francis Coats [<mailto:fecoats@msn.com>]

Sent: Saturday, March 02, 2013 10:32 AM

To: Michael Bessette; Mike Inamine; Chris Elliott; FRWLP_Comments

Subject: Preserving Starr Bend Road frwlp

Friends:

I heard a rumor that SBFCA and DWR are discussing the abandonment of Starr Bend Road with Sutter County. If that is taking place, I am disappointed. Starr Bend Road is one of the very few points of potential near river access left. It is critical to preserving the general public's access in order to give meaning to the general public's right to engage in recreational activity on the river and on the banks of the river below high water mark. The activities of the public in the river bottoms are of no concern to the flood control agencies unless they present an actual risk to the flood control operations. So long as the public takes access over appropriate ramps, as exist at Starr Bend, there is just no reason for SBFC and DWR to pursue shutting the public out. Locking the gates closed and obstructing appropriate access increases the risk of damage to the levees. Locking the gates open except when the river is closed by an appropriate agency (State Lands, for example) and under an appropriate process, presents no risk whatsoever to the flood control purposes of SBFCA.

I14-A

In addition, this is a troubling development given the recently completed public comment period for the EIS/EIR. Did SBFCA know it was pursuing abandonment of Starr Bend Road while putting out a EIS/EIR indicating that there was no substantial effect contemplated on public access to public use lands and recreational resources? A proposal to eliminate an existing public road leading from the banks of the river across the levee and to Garden Highway (when there is already extremely limited access) sounds like something that should have figured into the cumulative effects analysis of the effect of this project on public access to public use lands and access to a recreational resource.

I suggest that SBFCA make sure that its final documents honestly reflect the foreseeable affect of this project, considered cumulatively with the construction of the levees and the intention of SBFCA and DWR to pursue further curtailment of public river access, on public access to public use lands and to the recreational resource that is the Feather River including the temporarily dry lands below high water mark.

You told me this was intended to be recreation neutral - I understood this to mean that SBFCA would not be pursuing matters that served no purpose other than to limit recreational access to the river. Instead SBFCA is actively pursuing further restrictions on public access to the river.

As public agencies, SBFCA and DWR are obligated to respect the public trust doctrine, and not interfere unnecessarily with the public use of the river and its banks.

Frank Coats

Response to Letter I14

I14-A

To clarify, LD 1 is pursuing abandonment of the road by Sutter County within the floodplain restoration area associated with LD 1's completed levee setback project. This is not a SBFCA action nor part of the FRWLP. The result of this action is that Sutter County would no longer be responsible for operations and maintenance of the former roadway; however, the underlying land still remains in public ownership and public access provisions for recreation may be possible. The FRWLP proposes no permanent change in public access and any access effects would be only temporary and associated with limiting access within the construction footprint and during the construction season for public safety. As such, there are no permanent effects on access to be described as part of the project or to be cumulatively considered. On the point of SBFCA's overall approach toward recreation and public access of the river corridor, SBFCA is honoring its commitment and will investigate opportunities to facilitate access. This commitment is demonstrated in the SBFCA Board's resolution on March 13, 2013 to adopt a memorandum of understanding (MOU) that specifically indicates that public access provisions will be considered in the Feather River Regional Flood Management Plan recently initiated with SBFCA as a co-lead for its development. Comment did not necessitate change to the Final EIS.

Letter I15—Francis Coats, March 14, 2013

Letter I15

From: Francis Coats [<mailto:fecoats@msn.com>]
Sent: Thursday, March 14, 2013 8:01 AM
To: michael.bessette@sutterbutteflood.org; michael.inamine@sutterbutteflood.org; Jeff Koschak, Contact For Usace Frelp; Mary.Hays@slc.ca.gov; Curtis Fossum; Jan Stevens; Elliott, Chris
Subject: Feather River Access

Friends:

Please make sure that the minutes of the Wednesday SBFCA meeting accurately reflect Barbara LeVake's statement that LD1 does not support public access to the public land along the Feather River.

At the Sutter Butte Flood Control Agency meeting on Wednesday Barbara LeVake, LD1 board member and SBFCA board member, said that Levee District Number One of Sutter County does not support public access to public land on the Feather. We knew that from the number of locked gates maintained by LD1 and the ongoing effort to have the county abandon Starr Bend Road, but it is nice to have a clear statement on the record from Barbara LeVake and LD1.

I15-A Also, the comment has implications for the pending EIS and its discussion of the cumulative effect of the FRWLP on public access to public lands and recreation areas. LD1 does not support access and as a board member and a maintenance organization, and can be foreseen to obstruct access in the future.

The DEIS is inadequate in its discussion of the FRWLP on access to public use areas and recreational resources. Now we have a clear statement from a board member explaining why the issues were not discussed. It is clear that the cumulative effect of putting up gates along the LD1 portion of the FRWLP will certainly result in gates locked on a general basis by LD1, obstructing access to land the general public has a right to use for recreational purposes. The DEIS does not discuss this because the sponsoring agency is anti-public access.

Francis Coats 3392 Caminito Avenue Yuba City CA (530) 701-6116 fecoats@msn.com
Sent from my Kindle Fire

Response to Letter I15

I15-A

On March 14, 2013, Michael Bessette from the Sutter Butte Flood Control Agency e-mailed Mr. Coats a response confirming that the SBFCA Board meeting minutes will accurately reflect the statements made in the meeting by all who spoke at the meeting.

Mr. Bessette also noted that the outcome of the SBFCA Board's discussion at their meeting on March 13, 2013 was to pass a resolution to execute a memorandum of understanding (MOU) that includes facilitation of public access, specifically as studied through the Feather River Regional Flood Management Process, for which SBFCA is a co-lead. The FRWLP proposes no permanent change in public access and any access effects would be only temporary in nature associated with limitations of access within the construction footprint and during the construction season for public safety. As such, there are no permanent effects on access to be described as part of the project or to be cumulatively considered. The passage of the MOU, including a provision for public access, by an

eight-to-two favorable vote by the SBFCA Board as recommended by SBFCA staff demonstrates that SBFCA as the sponsoring agency for the FRWLP is not anti-public access. Comment did not necessitate change to the Final EIS.

Letter I16—Francis Coats, March 18, 2013

Letter I16

From: Francis Coats [<mailto:fecoats@msn.com>]
Sent: Monday, March 18, 2013 3:00 PM
To: Elliott, Chris; Michael Bessette; Mike Inamine; frwlp_comments@usace.army.mil
Subject: FRWLP inclusion of description of navigable servitude as part of the laws generally governing the process

Friends:

I have finally see a copy of the mou signed by the eleven or twelve environmental organizations/commentors.

I am still hoping the EIS will include, in the section setting out the laws effecting the project, a summary of the rights of the general public under the navigable servitude. Is that planned or at least being considered?

I16-A I also want to mention, in light of the attempt to draw a bright line between SBFCA and LD1, that SBFCA is a joint powers agency, formed for the purpose of facilitating each of its constituent agencies, including LD1's, accomplishment of its respective goals in its respective area. SBFCA does not empower LD1 to do anything, in a legal sense, that it was not empowered to do before. Nor does SBFCA have greater power in LD1's area, than LD1 had at the beginning. In a very real sense, LD1 is a sponsor of the EIS. Saying that what LD1 might do in the future in the way of obstructing public access to the river is some how not SBFCA's concern is not at all convincing, both because L1's future actions are a foreseeable future projects with a cumulative effect, and because LD1 is a sponsor of this EIS process.

Response to Letter I16

I16-A

The inclusion the commenter requested is included in the Final EIS in Section 3.14.2.1.

Letter I17—Bob Hackamack, December 26, 2012

Letter I17

-----Original Message-----

From: Bob Hackamack [<mailto:BHackamack@frontier.com>]

Sent: Wednesday, December 26, 2012 11:58 AM

To: FRWLP_Comments

Subject: RE: Feather River West Bank Levee Project EIS/EIR; the California
Recreational Navigable Servitude

I17-A

Francis: The Corps is able and probably required to set the federal head of navigation. I wonder what they have set for Feather River?

You correctly quote some of Judge Montgomery's opinion as, "exercise the incidents of (navigation)", but it is my opinion that Judge Montgomery intended that public use "below high water mark", if I quote correctly, for those "incidents of navigation" include emptying a swamped boat and bypassing a river blockage, but not sitting on the shore to eat lunch or any other purpose like bird watching, fishing from shore or hiking.

Boating and fishing from a boat was the subject of that suit brought by land owners. Do you have access to that decision? Other decisions and common law may have established the hiking, fishing, etc use of the land below annual high water mark for the past (20 ?) years.

In summary, I suspect the Corps wants to leave river access to the California courts and agencies rather than tackle it in the EIR/EIS, but you can require the Corps to state their head of navigation for the Feather in a letter to you or in the EIR/EIS, but on the Tuolumne the head set by the Corps at a ferry location that is well downstream of the present day actual and that set by the FERC. The FERC recognizes raft outfitter use as a commercial use and thus the head of navigation.

Good health and best wishes for the new year. Bob H

Response to Letter I17

I17-A

This comment was received via email and is addressed in response to another commenter (Francis Coats). To address the comment with regard to the navigability of the river, for the purposes of Section 10 of the Rivers and Harbors Act, the Feather River is considered navigable up to the Marysville Railroad Bridge (this information can be found at <http://www.spk.usace.army.mil/Missions/Regulatory/Jurisdiction/NavigableWatersoftheUS.aspx>). Beyond Section 10, it is well established that the Feather River is navigable in practice by small recreational craft throughout the study area (with Thermalito Afterbay as the northern project extent) and there are public boating facilities to support such use. Comment did not necessitate change to the Final EIS.

Letter I18—John M. Kuster, December 27, 2013

Letter I18

-----Original Message-----

From: Kuster, John M [<mailto:jkuster@te.com>]

Sent: Thursday, December 27, 2012 11:16 AM

To: FRWLP_Comments

Subject: Feather River west activities and available online information

I18-A

I am a property owner along the levee for the Feather River, located north of the Hwy 99 crossing in approximately the area described by the letter recently received from the US Army Engineers. Since I live in the Bay Area, I was wondering how much information is available on the web about the project so as not to have travel to the meetings in either Yuba City or Gridley. My property is just north of Laurel Ave. (37 Laurel is the actual address) and not too many years ago a rock "toe" was constructed along our property to help retain stability of the levee from sliding. Rocks were used to fill in a drain ditch along the outside of the levee. Also, we do have an irrigation water pipeline that is submersed within the levee that leads from our fields to a pump on a pond on the inside bank of the levee. We maintain riparian rights to this water. Is this pipeline in jeopardy?

I18-B

I appreciate any information available.

Sincerely,

John Kuster

Sr. Product Manager - N. America & Asia

<rtfimage://>

Aerospace, Defense & Marine Division

Office; 650 361-5384

Cell; 650 384-9349

email: jkuster@te.com

Response to Letter I18

I18-A

Interested parties can visit the project website at www.sutterbutteflood.org/ for more information and updates about the FRWLP. It is updated regularly and if you have additional questions you can email info@sutterbutteflood.org. Materials presented at the scoping meetings in January 2013 are on the website. Comment did not necessitate change to the Final EIS.

I18-B

USACE and SBFCA appreciate your review and comment on the Draft EIS/EIR and understands your concerns about this very sensitive issue related to your home. Immediately north of Laurel Avenue, the 65% engineering design documents proposes construction of a seepage berm on the landside of the levee and a slurry cutoff wall through the levee. Details of how the existing rock "toe" and previously filled drain ditch along the outside of the levee will be affected will be developed as the engineering designs progress to the 100% completion stage. SBFCA will work with each landowner to determine next steps in terms of specific effects on their property. Comment did not necessitate change to the Final EIS.

Letter I19—Al Sawyer, January 16, 2013

Feather River West Levee Project January 16, 2013 Public Meeting Comment Card

Letter I19



US Army Corps
of Engineers
Sacramento District

Name: AL SAWYER Title: ASST PWD Date: 1/16/13
Phone: 530 822 7450 Fax: _____ Affiliation: SUTTER CO.
Email: asawyer@co.sutter.ca.us Street Address: 1130 CIVIC CENTER BLVD
City: YUBA CITY State: CA Zip: 95993

☒ Please add me to the mailing list to receive future updates.

Thank you for attending the Feather River West Levee Project (FRWLP) public meeting. Please provide your input in the space below about the content of the draft environmental impact statement/environmental impact report (EIS/EIR) for the FRWLP. After you've written your comments in the space below, place this card in one of the designated baskets around the room or hand it to a project team member. The public can also comment on the draft EIS/R via email or US Postal Service until Feb. 13, 2013. The public may send comments via email to FRWLP_comments@usace.army.mil or to USACE, Sacramento District, ATTN: Mr. Jeff Koschak (CESPK_PD_RP), 1325 J Street, Sacramento, CA 95814. Please write legibly.

I19-A

Construction-related impacts to county roads. Sutter County requires a permit and mitigation for haul (intensive) truck damage to roadways.

A specific special provision in the contract documents to ensure permits are recognized and obtained is suggested.

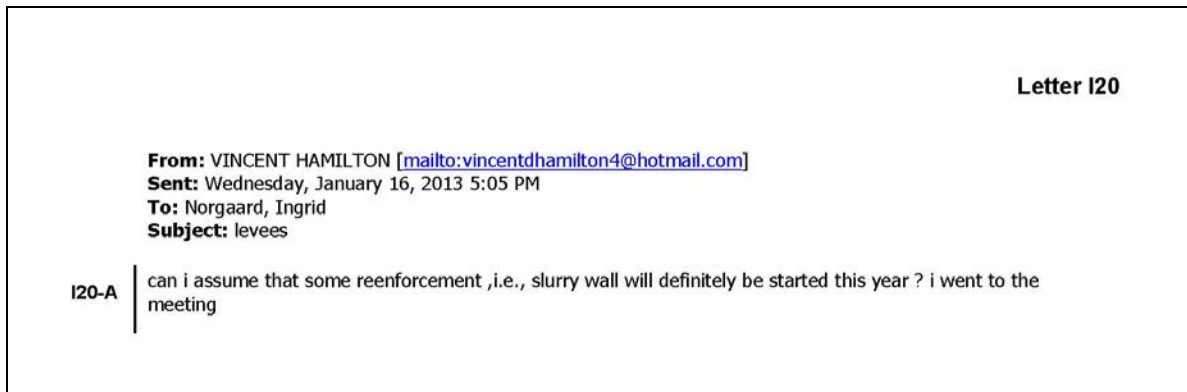
Borrow pits need to be addressed early as well for SMARA and/or County grading permit compliance.

Response to Letter I19

I19-A

Comment noted. SBFCA will obtain a permit from Sutter County for their hauling activities. Comment did not necessitate change to the Final EIS.

Letter I20—Vincent Hamilton, January 16, 2013



Response to Letter I20

I20-A

SBFCA is working hard to begin construction this year, most likely in a reach on the south end of Yuba City that has been the site of prior levee failures. Similarly, USACE and other cooperating agencies are working expeditiously toward approvals necessary to facilitate construction. Other reaches are expected be constructed in 2014 and may continue through 2015. The commenter's attendance and participation are appreciated. Comment did not necessitate change to the Final EIS.

Letter I21—Vincent Hamilton, January 16, 2013

Feather River West Levee Project January 16, 2013 Public Meeting Comment Card



US Army Corps
of Engineers
Sacramento District

Letter I21

Date: 1-16-13

Name: Vincent Hamilton Title: MD

Phone: 6748031 Fax: 6740602 Affiliation:

Email: vincenthamilton@hotmail.com Street Address: 870 Shasta St. #40

City: Yuba City State: Cal. Zip: 95991

☒ Please add me to the mailing list to receive future updates.

Thank you for attending the Feather River West Levee Project (FRWLP) public meeting. Please provide your input in the space below about the content of the draft environmental impact statement/environmental impact report (EIS/EIR) for the FRWLP. After you've written your comments in the space below, place this card in one of the designated baskets around the room or hand it to a project team member. The public can also comment on the draft EIS/R via email or US Postal Service until Feb. 13, 2013. The public may send comments via email to FRWLP_comments@usace.army.mil or to USACE, Sacramento District, ATTN: Mr. Jeff Koschak (CESPK_PD_RP), 1325 J Street, Sacramento, CA 95814.

Please write legibly.

I favor the whole shurry wall plan.
If it protects levees to keep people off
them in rainy season, so be it.

I also favor keeping Engelbright Dam intact

I21-A

Human + housing protection is the most important goal.
Wouldn't river bed dredging be helpful?

Response to Letter I21

I21-A

SBFCA's preferred alternative, for which permits are being sought, is the plan that is predominantly slurry walls (more than 85%). There are some locations where a seepage berm is the more effective solution, so they are used instead of slurry walls in these areas. River dredging does not substantially reduce flood risk because the Feather River in the study area is not limited in conveyance capacity and because dredging would not address the documented deficiencies according to Federal and state criteria. Comment did not necessitate change to the Final EIS.

Letter I22—Michael C. Andrews, January 17, 2013

Feather River West Levee Project January 16, 2013 Public Meeting Comment Card



Letter I22

US Army Corps
of Engineers
Sacramento District

Date: 01/17/2013

Name: Michael C. Andrews DPM Citizen
Phone: 530-218-2648 Fax: _____ Affiliation: Sutter Co Resident
Email: _____ Street Address: 888 Southland Drive
City: Yuba City State: Calif Zip: 95991-6939
☐ Please add me to the mailing list to receive future updates.

Thank you for attending the Feather River West Levee Project (FRWLP) public meeting. Please provide your input in the space below about the content of the draft environmental impact statement/environmental impact report (EIS/EIR) for the FRWLP. After you've written your comments in the space below, place this card in one of the designated baskets around the room or hand it to a project team member. The public can also comment on the draft EIS/R via email or US Postal Service until Feb. 13, 2013. The public may send comments via email to FRWLP_comments@usace.army.mil or to USACE, Sacramento District, ATTN: Mr. Jeff Koschak (CESPK_PD_RP), 1325 J Street, Sacramento, CA 95814.

Please write legibly.

I22-A

I attended 01/16/2013 and focused on information put to me and others. Confusion - It certainly appears very bureaucratic with all the multiple levels of government to have can that be efficient? - The voters approved that portion the State put in the report - right? It seems the answer to the levee is the slurry wall to prevent seepage/leakage - and make the levee stable - right? - Then just do the job -!!! - But there is so many studies and calculations and environmental studies that just cost more money - Sure there are lots of jobs for all these bureaucratic levels but that is tax payers dollars - just do the damn slurry wall and stop "sharving around" MCA

Response to Letter I22

I22-A

The commenter's frustration with the complex processes to get to construction is understood. SBFCA, USACE, and the State of California have worked toward and achieved streamlining of these processes to facilitate construction scheduled for 2013, continuing in 2014 and 2015. SBFCA's preferred alternative, for which permits are being sought, is the plan that is predominantly slurry walls (more than 85%). There are some locations where a seepage berm is the more effective solution, so they are used instead of slurry walls in these areas. The commenter's support in moving forward to achieve flood-risk reduction as quickly as possible is appreciated. Comment did not necessitate change to the Final EIS.

Letter I23—Sharron Cosker, January 19, 2013

Letter I23

-----Original Message-----

From: SHARRON COSKER [<mailto:scosker@sbcglobal.net>]

Sent: Saturday, January 19, 2013 7:17 PM

To: Koschak, Jeff A SPK

Cc: ingrid.norgaard@icfi.com

Subject: Feather River West Levee Project

Hi Jeff,

I23-A

I am a home owner at 423 2nd Street in Yuba City, Ca. 95991.. I was not able to attend the meeting held on January 15 & 16 but I have heard a lot of negative comments from home owners.

I am very interested in some details of the meeting. Are there minutes?
Is this a proposal only or already slated to start in 2013? When will we know how our situation is going to be affected?

I23-B

My home backs up to the Levee at this time and would have to be removed to make the project happen. Is there a plan to acquire the home by purchasing? If so what would be the value basis? Would the Historical homes be moved to another location? The family lives in three of these historical homes along that portion of the levee so naturally we are all interested in our future.

I23-A
cont'd

Is there a web site where the project information can be viewed?

Thank you and I would appreciate hearing from you soon,

Sharron Cosker
423 2nd Street
916-276-3126

Response to Letter I23

I23-A

A meeting was held on February 26, 2013 with the 2nd Street property owners to provide them with more information about how their properties might be affected by the project. Interested parties can also visit the project website at www.sutterbutteflood.org/ for more information and updates about the FRWLP. It is updated regularly and if you have additional questions you can email info@sutterbutteflood.org. Materials presented at the scoping meetings in January 2013 are on the website. Comment did not necessitate change to the Final EIS.

I23-B

USACE and SBFCA appreciate your review and comment on the Draft EIS/EIR and understands your concerns about this very sensitive issue related to your home. As SBFCA prepares to construct each phase of the project, they and their engineers will evaluate the homes in the footprint to determine if they threaten the integrity of the levee or project. If the answer is “yes,” SBFCA will work with each landowner to determine next steps in terms of the acquisition process (including issues related to home value, relocation, etc.). SBFCA is still evaluating whether structures directly adjacent to the levee along 2nd Street will ultimately have to be removed. If they are acquired, values will be based on appraisals. Comment did not necessitate change to the Final EIS.

Letter I24—Sharron Cosker, January 25, 2013

Letter I24

-----Original Message-----
From: SHARRON COSKER [<mailto:scosker@sbcglobal.net>]
Sent: Friday, January 25, 2013 6:51 PM
To: Jeff A SPKKoschak
Cc: Norgaard, Ingrid; FRWLP_Comments
Subject: RE: Feather River West Levee Project

I24-A

Thank you all for returning my email. I understand that a meeting for the 2nd street homeowners is tentatively planned for Feb. 19th. I will wait until then to get answers to all of my questions.
Thank you,

Sharron Cosker
423 2nd Street
Yuba City, Ca. 95991

Response to Letter I24

I24-A

USACE and SBFCA appreciate the commenter’s participation in the process. Comment did not necessitate change to the Final EIS. A meeting with the homeowners occurred on February 26, 2013.

Letter I25—Carl Cilker, January 28, 2013



Response to Letter I25

I25-A

Plate 2-4 provides an illustration of a slurry cutoff wall and a narrative description is provided in Section 2.5.1. The tip elevation, expressed in feet, refers to the bottom elevation of the cutoff wall, meaning the elevation at which excavation for the wall would stop. It is not the same as depth; to calculate wall depth, the tip elevation would need to be subtracted from the levee de-grade elevation. Comment did not necessitate change to the Final EIS.

Letter I26—Jeff Fredericks, February 12, 2013

Letter I26

February 12, 2013

Feather River West Levee Project, EIR Comments

USACE, Sacramento District
ATTEN: Mr. Jeff Koschak
1325 J Street
Sacramento, Ca 95814

Mr. Koschak,

My name is Jeff Fredericks, I live at 902 Vance Ave, Biggs, Ca (section/area #37, station 2275 to 2290 of the EIR) and I would like to provide the following comments to the EIR Draft and general comments to the project as a whole.

Attending various meetings and in the EIR, I have seen and heard many times that two of the major goals are; To do the project as cost effective as possible and comply with The Farm Land Protection Act. Because of this I would like to propose the following in this section of the levee:

I26-A

Option 1

Construct the slurry cut off wall at the levee closest to the river in the existing levee from Vance Ave to at least Palm Ave. There is an existing levee now at this location. This would save money to the project as you would not have to buy farm ground from individuals as the state already owns this ground and it would also save valuable farm ground from extinction. It would also be the least impact to the property owners in this area due to construction activities, relocations of existing utilities, removal of structures, possible irrigation and domestic well relocations, abandonments or deterioration and most notably livelihood.

I26-B

Option 2

I own property on both side of the levee, so I have to travel back and forth across the levee to access my property. If you relocated the levee to the east (closer to the river) this would allow me to access all of my property. This would also allow for more area between existing structures and the relocated levee. This option might create new farmable ground thereby offsetting some of the prime farm ground you are eliminating.

I26-C

Option 3

Do not rebuild the levee to its existing elevation. Per your report and from what I have read, the levee is already at least 5 ft higher than what is required for a 200 yr flood. This would save money in construction cost, improving the scenic landscape and be socially acceptable.

I26-D

Option 4

Fill in the areas on the east side of the levee that was used for the borrow areas to build the levee. I would like to offer my property on the east side of the levee as a spoils area for clean fill (native sandy loam) material. Native clean fill may be brought up to the elevation of the original ground before the levee was installed. This would save construction costs as native clean spoils would not have to be hauled off site. It would also save costs in having to purchase more property as the new toe of the levee would be located up on the levee within the existing right of way. By raising the grade on the east side

I26-D
cont'd

of the levee this would help in preventing underground boils. This option might create new farmable ground thereby offsetting some of the prime farm ground you are eliminating.

I26-E

In addition to the options above I would like to comment on the following;

- During Construction;
 - How are unforeseen existing utilities and improvements going to be accounted for?
 - How is dust going to be kept to a minimum?
 - How do you plan on keeping rattlesnakes from migrating into buildings and structures?
 - Per your report, "it's not typical for construction equipment to be within 30 ft of a structure". I have one structure that is already within the levee foot print, what happens in this case?
 - How is underground water turbidity going to be handled? I have two wells within 100ft of the levee and believe that silts will be stirred up during construction as the slurry cutoff wall will be 90ft deep at my location.

I26-F

- After the work is complete;
 - Who is going to have access to the levee?
 - Who is going to inspect and maintain the levee?
 - How is access going to be granted for property owners that have to access both side of the levee?
 - How is the repair of failed / broken underground utilities going to be handled? Will property owners have the right to repairs pipes during the irrigation season to save their crops?
 - What is the plan if an existing well stops producing or produces less than what it did before construction? Per all your models well production is not an issue, but what happens if your models are wrong?
 - There is mention of exclusion fencing or K-rail. Are these items to be used during construction activities only or is there a plan for permanent fencing once the project is complete? If there is a plan for permanent fencing, what is the plan?

I26-G

In the EIR you comment, that orchards have limited value to wildlife. This statement is very offensive to me and can't see how you can make such a claim. Orchards see an abundance of wildlife and provide homes for such. Orchards are very valuable to wildlife not to mention our environment. In Light of the fact that I'm being forced to sell a portion of my property and the opinion is that orchards are not important, I do not have a warm fuzzy feeling about this whole proposition and project. I just hope that property owners along the levee will be treated fairly. How will fair market value be assessed? Will my property assessment include the loss of future income that will come from the sale of my livelihood?

I26-H

Finally, other than access for inspections, I don't understand why I would not be able to replant my orchard within the proposed levee right of way? From what I understand, the planting of an orchard does not create unstable ground if anything it creates stability. If you want to inspect the levee today in this area you could with the orchard existing. I propose to the state that replanting be permitted or existing orchards be left as they are now.



Jeff Fredericks
902 Vance Ave
Biggs, Ca 95917

Response to Letter I26

I26-A

USACE and SBFCA appreciate your review and comment on the Draft EIS/EIR. SBFCA went through an extensive alternatives review during several phases of the project development: a pre-program screen prior to the EIR/EIS analysis; a program-level screen that considers planning, engineering and financial factors; and a project-level screen specific to the project reach and focused on determining the most appropriate project proposal based on local context and deficiencies. The alternatives presented in the EIS/EIR best address the primary levee and flood management deficiencies in each stretch of the FRWLP study area. From a NEPA perspective, USACE worked cooperatively with SBFCA in determining the purpose and need for the project and adequacy of alternatives to meet the purpose. From an engineering perspective, USACE provided technical review of the project under its responsibilities in carrying out Section 408 permission. The “levee” closest to the river is not the Federal project levee and is not proposed for remediation with this project. Comment did not necessitate change to the Final EIS.

I26-B

The project is proposed as a ‘fix-in-place’ remediation and does not propose to relocate the existing federal project levee. Fix-in-place has been found to be the most cost efficient remediation method for the FRWLP. Comment did not necessitate change to the Final EIS.

I26-C

In some locations the existing levee height provides freeboard in excess of minimum requirements. Excess freeboard reduces the risk of levee overtopping during rare flood events therefore the Project will reestablish the existing levee height and existing available freeboard. Comment did not necessitate change to the Final EIS.

I26-D

As the final project designs are completed, SBFCA will evaluate the area identified as a potential spoil location, should one be needed in that area. Comment did not necessitate change to the Final EIS.

I26-E

During Construction

- a. *How are unforeseen existing utilities and improvements going to be accounted for?*

How unforeseen utilities and improvements are handled will depend upon their nature. Critical utilities will be perpetuated while abandoned or unused utilities may be removed after consultation with the utility owner.

- b. *How is dust going to be kept to a minimum?*

Contractor will be required to implement dust control measures such as applying water to the work area.

c. *How does SBFCA plan on keeping rattle snakes from migrating into buildings and structures?*

SBFCA is not including any specific measures to address the potential for rattlesnakes to enter buildings outside of the construction area, but if there is concern over this potential occurrence, SBFCA recommends the commenter seal all cracks and other openings greater than 1/4 inch to prevent rattlesnakes from entering his buildings/structures. The commenter may also want to block off the gap beneath his garage door and ensure that there are no gaps or openings to the crawl space under the building. These measures should greatly reduce the potential for displaced rattlesnakes to enter buildings.

d. *Per the EIS/EIR, "it's not typical for construction equipment to be within 30 feet of a structure." Commenter has one structure that is already within the levee footprint, what happens in this case?*

Structures in the vicinity of the levee that will remain in place after completion of the project will be identified accordingly in the construction drawings and will be protected in place during construction activities.

e. *How is underground water turbidity going to be handled? Commenter has two wells within 100 feet of the levee and believes that silts will be stirred up during construction as the slurry cutoff wall will be 90 feet deep at their location.*

SBFCA will conduct pre- and post-construction well tests on wells in the vicinity of the slurry wall construction to determine if the slurry wall construction creates water quality or water quantity effects.

I26-F

After the Work is Complete

f. *Who is going to have access to the levee?*

The project is not proposing to alter who has access to the levee. The levee will continue to be accessed by Federal, state and local agencies with responsibilities for levee inspections, maintenance and operations. Others with existing rights to access the levee may also continue to exercise their access rights after completion of the project.

g. *Who is going to inspect and maintain the levee?*

Federal, state and local agencies will continue to inspect the levee. The State of California currently is responsible for maintenance of the levee adjacent to your property and will continue to maintain that segment of the levee after completion of the project.

h. *How is access going to be granted for property owners that have to access both sides of the levee?*

Access easements will be granted to property owners who have to access both sides of the levee.

i. *How is the repair of failed/broken underground utilities going to be handled? Will property owners have the right to repair pipes during the irrigation season to save their crops?*

SBFCA will coordinate with property owners and utility owners to ensure that any damaged underground utilities are repaired in a timely manner to avoid service disruptions during critical times. SBFCA will coordinate with property owners to schedule utility relocations and temporary service disruptions with irrigation schedules.

- j. *What is the plan if an existing well stops producing or produces less than what it did before construction? Per all models for the FRWLP well production is not an issue, but what happens if the models are wrong?*

SBFCA will conduct pre- and post-construction well tests on wells in the vicinity of the slurry wall construction to determine if the slurry wall construction creates water quality or water quantity effects.

- k. *There is mention of exclusion fencing or K-rail. Are these items to be used during construction activities only or is there a plan for permanent fencing once the project is complete? If there is a plan for permanent fencing, what is the plan?*

Exclusion fencing or K-rail will be used during construction activities only. SBFCA is not planning to install new permanent fencing throughout the project. However, operating and maintaining agencies may elect to install permanent fencing in the future. Currently no plan exists for new permanent fencing throughout the project.

I26-G

There are several components to this comment. First, let it be expressed that orchards are viewed as highly important to SBFCA and its member agencies. A major driver for the project is protection of agricultural commodities and infrastructure to ensure that the region remains strong and viable for sustainable agriculture as the dominant economic engine, and orchards are a highly valued target crop. In regard to the value of orchards for wildlife, it is acknowledged that agriculture, and orchards in particular, provide forage, nesting, and roosting habitat for many species. However, from an ecological perspective, orchards do not provide the multi-layered structure, diversity of vegetation for food and cover, and other functions compared to native riparian habitat associated with river corridors. Also, orchards are subject to spraying, mowing, pruning, harvesting, and other management activities that disturb wildlife. It is for these reasons that orchards are considered to have limited value to wildlife relative to native habitat. With regard to property value determinations, the agency will hire an independent, accredited appraiser familiar with local property values to appraise the property and determine its fair market value. The appraiser will contact the property owner to make an appointment to inspect the property, and invite the property owner to accompany him/her during an inspection of the property. The property owner should give the appraiser any information about improvements and any special features that he/she believes may affect the value of the property, such as:

- There are other persons who have ownership or interest in the property.
- There are tenants on the property.
- Items of real or personal property that belong to someone else are located on your property.
- The presence of hazardous material, underground storage or utilities.
- There are contracts for the crops grown on the property

The appraiser will inspect the property and note its physical characteristics. He/she will review sales of similar properties in order to compare the facts of those sales with the facts about the property. The appraiser will analyze all elements that affect value. The appraiser must consider normal depreciation and physical deterioration that has taken place.

After the inspection, the appraiser will complete an appraisal report that will include the appraiser's determination of the property's fair market value and the information upon which the fair market value is based. It is important to note that each parcel of real property is different and, therefore, no single formula can be used to appraise all properties. Among the factors an appraiser typically considers in estimating fair market value are the following.

- The location of the property.
- The age and condition of improvements on the property.
- How the property has been used.
- Whether there are any lease agreements relating to the property.
- Whether there are any environmental issues, such as contaminated soil.
- Applicable current and potential future zoning and land use requirements.
- How the property compares with similar properties in the area that have been sold recently.
- How much it would cost to reproduce the buildings and other structures, less any depreciation.
- How much rental income the property produces, or could produce if put to its highest and best use.

The appraisal report will describe the property and the agency will determine a value based on the condition of the property on the day that the appraiser last inspected it, as compared with other similar properties that have sold. The value in the appraisal report will include the value of any orchards on the property being acquired, and therefore will take into account the future income that the orchards may produce. Comment did not necessitate change to the Final EIS.

I26-H

The levee right of way is required for constructing and maintaining the levee. Replanting of trees within the right of way is not permissible due to the potential interference with levee maintenance activities. Comment did not necessitate change to the Final EIS.

Letter I27—Eugene A. Krieb, February 13, 2013

Letter I27

Eugene A. Krieb
Prop Owner
Sutter Flood Control Agency
1227 Bridge St., Suite C
Yuba City, CA 95991

4115 Butte House
Apt 'C'
Yuba City, CA
95993

Include following comments in
the Environmental Report, as
appropriate:

→ Last week, I made telephone
comments to Director Mike Inamine
& reviewed the EIR briefly.

→ At the several meetings
I know concern for Feather River
channel capacity maintenance was
expressed.

I27-A

→ Goals & Allowing should
be determined by Crocker Dam
discharges, 1965-66 high water
must be considered.

I27-B

→ Sutter Co. owes to the thread of
the river when levees were built.

I27-C

And trees vs dredging is partly
the responsibility of Sutter County
→ Engineering Value should be the
Prime Consideration of the projects,

Eugene A. Krieb
Calif. Prof. Civil Engineer
C 13.779

Response to Letter I27

I27-A

A range of hydrologic factors has been considered in project planning, including varying discharges from Oroville and historical events of high velocity and water surface elevation. Comment did not necessitate change to the Final EIS.

I27-B

It is understood that the comment is partly about tree management. This responsibility has been primarily assumed by LD 1 and LD 9 and California Department of Water Resources (DWR) based on the section of levee in the jurisdiction of each of these entities. Dredging is not considered an effective option for reducing flood risk because it would not address the known geotechnical deficiencies associated with the levees that have contributed to several catastrophic floods over the past 100 years. Comment did not necessitate change to the Final EIS.

I27-C

It is agreed that value is important and SBFCA has continually and aggressively implemented cost controls. The project is being delivered within budget and represents a wise investment of the assessment. One measure of cost control has been the use of independent third-party engineering review to ensure best value. Additional details on the value-engineering process are available upon request. Beyond design and transitioning to construction, the project will be subject to competitive bid and selection of the lowest qualified bidder. Comment did not necessitate change to the Final EIS.

Letter I28—Rick Walkling, February 15, 2013

Letter I28

2447 Derby Street
Berkeley, CA 94705

February 15, 2013

Mike Inaminie
Executive Director
Sutter Buttes Flood Control Agency
1227 Bridge Street, Suite C
Yuba City, CA 95991

Dear Mr. Inaminie:

Thank you for the opportunity to provide comments on the draft environmental impact report and study (DEIR/DEIS) for the Sutter Butte Flood Control Agency's West Levee Project that will be largely funded by state, and potentially federal, taxpayers. I worked on the Oroville FERC Relicensing and am a frequent recreational boater on the Feather River.

I28-A

I am concerned that the DEIR/DEIS does not consider a reasonable range of alternatives, and more importantly, that the proposed project could increase long-term flood risk both for the communities in the project area and urban communities downstream along the Sacramento River. Together with other organizations, we are particularly disappointed that the DEIR does not address any of the recommendations that American Rivers made in scoping comments to the DEIR. The DEIR/DEIS did not adequately evaluate a range of alternatives, consider the

I28-B

growth inducing impacts of the project, the potential for the project to increase flood risk (as opposed to decreasing it), or consider the robustness of various alternatives to a changing climate. We look forward to working with you in the Feather River Regional Flood Planning program in the months ahead to better understand your agency's perspective on these issues and hopefully develop a common vision for a path forward.

I28-C

We fully support development of a flood protection project to protect communities in the project area. We would support a different alternative than those analyzed in the DEIR and believe that such an alternative could better reduce long-term liabilities for the state and federal government, reduce long-term flood risk for communities in the project area, improve long-term water supply reliability for the State Water Project, improve water quality, and enhance fish and wildlife habitat. We would support a hybrid alternative that would involve fixing levees in place adjacent to urban areas, setting-back some reaches of the levee to attenuate flood flows, constructing low ring levees and drainage channels to route flood waters away from urban areas to the western and southern portions of the study area, and elevating structures in rural areas that would still be vulnerable to shallow flooding under this hybrid approach. We

I28-D

do not support construction of any portions or phases of the proposed project described in section 2.2.3 of the DEIR/DEIS. We would, however, support a "no-regrets" phase of the project

I28-D
cont'd



that is necessary to improve flood protection for Yuba City without foreclosing long-term sustainable flood management.

I28-E

Many of the problems with the project and DEIR/DEIS could be avoided or mitigated through a more comprehensive flood risk management approach designed to advance a more sustainable flood management system. Growth inducing impacts and associated increases in flood risk could be avoided through a combination of land use restrictions, agricultural conservation easements, building codes, and a robust emergency response program. Flood risk threats to downstream communities, project performance under climate change, and the lack of a multiple benefit approach could be resolved by a modified project design that utilizes a full toolbox of flood management strategies rather than a levee focused approach.

I28-F

We would like to work constructively with SBFCA and the USACE to expedite sustainable flood protection for the project area consistent with the Central Valley Flood Protection Plan, Executive Order 11988, and other applicable state and federal laws, plans, and policies. We believe that by working together we can develop a common vision that will better serve the taxpayers, and as a result, increase their willingness to invest in better flood management for the Central Valley.

Sincerely,

Rich Walkling

Response to Letter I28

I28-A

Between the publication of the Draft EIS/EIR and the final version of these documents, SBFCA worked intensively with representatives of the environmental community led by American Rivers to come to a better understanding of the flood-risk characteristics of the study area and downstream and the feasibility and efficacy of alternatives available to reduce flood risk. Through those conversations and documented in the supplemental comment letter signed by the coalition of environmental organizations, it has been acknowledged that the range of alternatives is considered adequate. The SBFCA Board and the coalition of environmental organizations have agreed to a memorandum of understanding (MOU) that commits to pursuing several identified multi-benefit actions including ecosystem restoration for fish and wildlife habitat, and the habitat that will be created as a direct result of the FRWLP at the Star Bend site, as well as others that may be identified through the Feather River Regional Flood Management Plan. Constructing the FRWLP is essential as the foundation upon which restoration building blocks can be laid. Comment did not necessitate change to the Final EIS.

I28-B

As described in the response to comment I28-A, between the publication of the Draft EIS/EIR and the final version of these documents, SBFCA worked intensively with representatives of the environmental community led by American Rivers to come to a better understanding of the flood-

risk characteristics of the study area and downstream, growth plans for the area, the feasibility and efficacy of alternatives available to reduce flood risk, and accommodation within the alternatives for changing climate and hydrology. Through those conversations and documented in the supplemental comment letter signed by the coalition of environmental organizations, it has been acknowledged that the range of alternatives is considered adequate. As codified in the MOU approved by SBFCA's Board on March 13, 2013, SBFCA similarly looks forward to working with the commenter and representatives from other organizations toward future multi-benefit actions through the Feather River Regional Flood Management Plan. Comment did not necessitate change to the Final EIS.

I28-C

The measures suggested in the comment were indeed evaluated by SBFCA for the FRWLP and by USACE and the State of California through the Sutter Basin Feasibility Study. While such measures may contribute to flood-risk reduction, they would not address the documented deficiencies in the levee that have resulted in catastrophic failures in the study area repeatedly in the last 100 years. Because much of the levees in the study area are already in a setback condition and provide floodplain area to allow the river platform to migrate and provide opportunity for enhanced fish and wildlife habitat, the alternative to fix the levees in place is considered a “no regrets” plan to allow future restoration actions in the floodplain to realize those opportunities. It is for this reason—to allow for a potential levee setback in the future near the confluence of the Feather River with the Sutter Bypass—that the project stops 4 miles north of the confluence. As discussed in the responses to comments I28-A and I28-B, between the publication of the Draft EIS/EIR and the final version of these documents, SBFCA worked intensively with representatives of the environmental community led by American Rivers to come to a better understanding of the flood-risk characteristics of the study area and downstream, growth plans for the area, the feasibility and efficacy of alternatives available to reduce flood risk, and accommodation within the alternatives for changing climate and hydrology. Through those conversations and documented in the supplemental comment letter signed by the coalition of environmental organizations, it has been acknowledged that the range of alternatives is considered adequate. Comment did not necessitate change to the Final EIS.

I28-D

As discussed in the responses to comments I28-A through C, between the publication of the Draft EIS/EIR and the final version of these documents, SBFCA worked intensively with representatives of the environmental community led by American Rivers to come to a better understanding of the flood-risk characteristics of the study area and downstream, growth plans for the area, the feasibility and efficacy of alternatives available to reduce flood risk, and accommodation within the alternatives for changing climate and hydrology. Through those conversations and documented in the supplemental comment letter signed by the coalition of environmental organizations, it has been acknowledged that the range of alternatives is considered adequate. Because much of the levees in the study area are already in a setback condition and provide floodplain area to allow the river platform to migrate and provide opportunity for enhanced fish and wildlife habitat, the alternative to fix the levees in place is considered a “no regrets” plan to allow future restoration actions in the floodplain to realize those opportunities. It is for this reason—to allow for a potential levee setback in the future near the confluence of the Feather River with the Sutter Bypass—that the project stops 4 miles north of the confluence. It has been further demonstrated to American Rivers that the project as proposed is essential for risk reduction for Yuba City, Gridley, Live Oak, and other communities north of Yuba City and is considered “no regrets” from the standpoint of protecting

existing populations in the study area while allowing for substantial future multi-benefit actions. Comment did not necessitate change to the Final EIS.

I28-E

It is agreed that the measures described are all part of a comprehensive and more holistic flood-risk management approach. SBFCA and its member agencies with land-use authority are in fact pursuing such measures. However, the project as proposed is considered an essential element in combination with these other measures to address documented deficiencies that have contributed to several catastrophic floods in the past 100 years and to meet Federal and state criteria. Comment did not necessitate change to the Final EIS.

I28-F

SBFCA and USACE appreciate the commenter's interest, and SBFCA specifically looks forward to working with the commenter through the Feather River Regional Flood Management Plan. Comment did not necessitate change to the Final EIS.

Letter I29—Edward C. Beedy, PhD

Letter I29

February 15, 2013

Mr. Mike Inaminie
Executive Director
Sutter Buttes Flood Control Agency
1227 Bridge Street, Suite C
Yuba City, CA 95991

RE: Comments on the SBFCA DEIR/DEIS West Levee Project

Dear Mr. Inaminie:

I29-A

Thank you for the opportunity to provide comments on the draft environmental impact report and study (DEIR/DEIS) for the Sutter Butte Flood Control Agency's West Levee Project that will be largely funded by state, and potentially federal, taxpayers. I recognize the paramount importance of protecting communities from catastrophic flooding and am very interested in working with your agency to obtain the taxpayer funding necessary for advancing multiple-benefit projects that will protect communities in your service area, improve recreational opportunities for Central Valley residents, and enhance fish and wildlife habitat along the lower Feather River. However, I am concerned that the DEIR/DEIS does not consider a reasonable range of alternatives, and more importantly, that the proposed project could increase long-term flood risk both for the communities in the project area and urban communities downstream along the Sacramento River, while not improving the habitat for fish and wildlife.

I29-B

For more than 20 years a group of friends and I have floated the Feather River from Oroville to Marysville on canoes and rafts for recreation and to enjoy the native vegetation and wildlife, as well as to observe the impressive migrations of fall-run Chinook salmon. As a professional wildlife biologist, I can attest that floating the river, and having access to the public lands there if a matter of critical concern to our group. On every trip we observe an abundance of wildlife including a number of special status species including: Bald Eagles, Western Yellow-billed Cuckoos, Willow Flycatchers, Yellow Warblers, and River Otters, in addition to the salmon.

I29-C

My review of the DEIR/DEIS that it does not evaluate the cumulative effects of the proposed project and associated flood control reservoirs on floodplain habitats and the fish and wildlife resources of the Feather River and its tributaries in sufficient detail. The system of dams, levees, canals on the Feather River and the urban and agricultural they support in the study area have contributed to the precipitous decline of fish and wildlife resources. Spring-run Chinook salmon on the Feather River are endangered and fall-run salmon are greatly reduced. The decline of these fisheries has imposed severe hardship on commercial fisherman and deprived recreational anglers of a value past time and food source. Salmon and other fisheries like the Sacramento Splittail are dependent on inundated floodplain habitat for reproduction or nursery habitat. Floodplains are also a source of primary and secondary productivity for a number of other fish and wildlife species.

129-C
cont'd

Oroville Dam, project levees, particularly in the lower portion of the study reach, agriculture in the flood way, historical dredging activities, and local berms constructed to reduce the frequency of agricultural land in the floodway have all contributed to the decline of floodplain habitat, and by extension, fish and wildlife dependent on those habitats. Modern perennial agriculture (orchard) in the floodway is only possible because of the regulation of the Feather River by Oroville Dam and the state water project, which has further reduced the area and frequency of inundated floodplain habitat.

129-D

The same can be said for terrestrial and avian species, particularly migratory birds. The river floodplains historically provided wetland habitat for millions for ducks, geese, swans, shorebirds, and host of other water birds that over-winter in the Central Valley, particularly in the Sacramento Valley. Those wetlands were reduced to below 5% of their historical extent due to the construction of levees and other land use changes. An important recreational resource and industry is now dependent on artificially flooded lands and subject to the uncertainties of water supply, electricity prices, farm practices and government appropriations to sustain them.

129-E

The proposed project to build the levee in place does not create any additional flood conveyance capacity and therefore any future efforts that could conceivably decrease flood conveyance would be viewed by local, state, and federal flood management agencies as an impact to public safety that must be mitigated. The project would facilitate additional urban development in the levee "protected" floodplain increasing the public safety imperative and thus aggravating the perceived, if not real, conflict between public safety and fisheries restoration. The very best way to protect public safety, particularly against the increasing storms that climate change will bring, is to give the river more room to safely convey flood flows. Giving the river more room also allows for other uses of the floodplain such as recreation, trails, wetlands that filter and cleanse water, and to improve fish and wildlife habitat.

Thank you for considering of my comments.

Sincerely,

Edward C. Beedy, Ph.D.
Wildlife Biologist
12213 Half Moon Way
Nevada City, CA 95959

Response to Letter I29

I29-A

Between the publication of the Draft EIS/EIR and the final version of these documents, SBFCA worked intensively with representatives of the environmental community led by American Rivers to come to a better understanding of the flood-risk characteristics of the study area and downstream and the feasibility and efficacy of alternatives available to reduce flood risk. Through those conversations and documented in the supplemental comment letter signed by the coalition of environmental organizations, it has been acknowledged that the range of alternatives is considered adequate. Specific to improving fish and wildlife habitat, the SBFCA Board and the coalition of environmental organizations have agreed to a memorandum of understanding (MOU) that commits to pursuing several identified multi-benefit actions for floodplain restoration, and others that may be identified through the Feather River Regional Flood Management Plan. Constructing the FRWLP is essential as the foundation upon which restoration building blocks can be laid. Comment did not necessitate change to the Final EIS.

I29-B

Comment noted. Comment did not necessitate change to the Final EIS.

I29-C

It is agreed and acknowledged that historical degradation of habitat has been severe and fish and wildlife have declined in population and biodiversity. However, these conditions are part of the existing environment at the time of the noticing and analysis for the project and therefore are not factored cumulatively. In fact, the project has undergone several iterations of extensive avoidance and minimization to result in a project with minimal effects and streamlined approval processes through the permitting agencies. The project represents a “no regrets” action for flood-risk reduction that allows for substantial restoration of fish and wildlife habitat in the floodplain. Comment did not necessitate change to the Final EIS.

I29-D

It is agreed and acknowledged that wetland habitat for over-wintering birds has been subject to loss since the mid-19th century. As discussed in the response to comment I29-A, specific to improving fish and wildlife habitat, the SBFCA Board and the coalition of environmental organizations have agreed to an MOU that commits to pursuing several identified multi-benefit actions for floodplain restoration, and others that may be identified through the Feather River Regional Flood Management Plan, including wetlands. Constructing the FRWLP is essential as the foundation upon which restoration building blocks can be laid. Comment did not necessitate change to the Final EIS.

I29-E

In general, the comment is accurate for much of the Central Valley; however, the specifics of the Feather River system in the study area differ from much of the Central Valley. The dam and reservoir at Oroville were constructed after the Sacramento River Flood Control Project was authorized and after the 1957 profile was established as the design standard for the system. A result of this circumstance is that the levee heights are well above the design flow that the system is intended to convey. Beyond levee height, the levees along the Feather River are considerably set

back from the active channel of the river, providing a floodplain that is substantially greater than most of the rivers of the Central Valley, in many places thousands of feet wide. The combined effect is that the Feather River in the study area is not limited by conveyance capacity as a significant flood-management risk. Multi-benefit floodplain projects as mentioned in the comment are very achievable in the existing configuration of the levees. Farther downstream in the system, conveyance capacity becomes more critical, and it is for this reason that the project stops 4 miles north of the confluence of the Feather River with the Sutter Bypass—to allow for a potential future setback levee. As discussed in the response to comment I29-A, the SBFCA Board and the coalition of environmental organizations have agreed to an MOU that commits to pursuing several identified multi-benefit actions for floodplain restoration, and others that may be identified through the Feather River Regional Flood Management Plan, including evaluating this action, a setback levee south of Laurel Avenue. Comment did not necessitate change to the Final EIS.

Chapter 5

Comments Received at Public Hearings and Responses

This chapter contains the comments received on the Draft EIS/EIR from attendees at three Public Hearings. One hearing was held on January 15, 2013 in Gridley and two hearings were held on January 16, 2013 in Yuba City.

Each comment within the transcripts of the public hearings has been assigned a unique code, noted in the margin. For example, the code “PH1-A2” indicates the second distinct comment (indicated by the “2”) by the first commenter (indicated by the “A”) in the first transcript (indicated by the “PH1”) received during the meeting. The chapter presents each transcript followed by the responses to the comments within that transcript. Table 5-1 summarizes the commenting party and date of the comment.

Table 5-1. List of Individuals Providing Comments at Public Hearings

Code	Public Hearing Commenter	Code	Public Hearing Commenter
Public Hearing 1, January 15, 2013, 6:00 p.m.		Public Hearing 2, January 16, 2013, 6:00 p.m.	
PH1-A	Sam Alexander	PH2-H	Frank McCarley
PH1-B	Dan Cole	PH2-I	Frank Coats
PH1-C	Mr. Romando	PH2-J	Lawrence Burns
PH1-D	Kathy Hodges	PH2-K	Unidentified Male
PH1-E	Unidentified Male	PH2-L	Vicki Stevenson
PH1-F	Ron Roman	PH2-M	Unidentified Male
PH1-G	Eugene Mason, Jr.	PH2-N	Unidentified Female
PH1-H1	Jeff Fredericks	PH2-O	Unidentified Male
PH1-H2	Darlene Fredericks	PH2-P	Unidentified Male
PH1-I	Sandra Waller	PH2-Q	Roy Stevenson
PH1-J	Justin Kelly	PH2-R	Unidentified Female
PH1-K	Jeff Hughes	PH2-S	Frank McCarley
PH1-L	Unidentified Male	PH2-T	Unidentified Male
Public Hearing 2, January 16, 2013, 3:00 p.m.		PH2-U	Unidentified Female
PH2-A	Vince Hamilton	PH2-V	Andrew (?)
PH2-B	Unidentified Female		
PH2-C	Al Sawyer		
PH2-D	Rick Small		
PH2-E	Unidentified Male		
PH2-F	Ryan Shore		
PH2-G	Jerry Orr		

Public Hearing 1, January 15, 2013, 6:00 p.m.

**Public Hearing
PH1**

---o0o---

Feather River West Levee Project

Public Meeting

Tuesday, January 15th, 2013

Gridley Veteran's Memorial Hall

249 Sycamore Street

Gridley, California

6:00 p.m.

---o0o---

Reported By: Jillian M. Bassett, CSR No. 13619

1

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PRESENTATION

Good evening and thank you very much for coming out this evening. This is one of three workshops that will be given. Tomorrow night there will be two in Yuba City. And this is for the Feather River West Levee Project, and specific to the environmental process for the National Environmental Policy Act as well as California Environmental Policy Act and the Environmental Impact Statement/Environmental Impact Report that is out on the street right now.

We have about a 15 to 20-minute presentation. First I'll tell you, I am Chris Elliot. And I am an ICF consultant consulting for the officers here in the Valley, Sacramento as well as in Redding. And we are working as consultants for Sutter-Butte Agency and are engineers in preparing the environmental document.

So I'm joined this evening by Mike Inamine, the Executive Director of the Sutter Butte Flood Control Agency, hand up there in the back. And then we have Mike Bessette who is the Director of Engineering, Sutter Butte Flood Control Agency. And they are full-time, dedicated agency staff.

And the agency is also supported by a number of consultants also there in the back. You probably know

1 Kim Floyd. And she assists with outreach efforts through
2 the assessment district process the past few years to fund
3 this project and get levee improvements.

4 Also joined this evening by Mary. Where is Mary?
5 She stepped out. But Mary is the manager for the
6 environmental and state -- there's Mary walking in through
7 the back there.

8 And we also have Chris Kirvanec, who is leading
9 the design team for the project.

10 Other consultants assisting this evening -- many
11 of you were greeted by either Michelle Osborn in the back
12 or Ingrid Norgaard in the back.

13 And also we're joined by Jillian who is going to
14 be recording this evening's meeting in terms of questions
15 and comments. So we do ask you to speak up.

16 The way we're going to run this is, it's about a
17 15, 20-minute presentation. And then if you have general
18 questions or comments, we will take those as a group. But
19 we understand that also a number of questions and comments
20 may be very specific. So we have a large team to assist
21 so we can take those questions one on one.

22 And then also this is an official meeting in
23 terms of Environmental Health Review Process. The Draft
24 Environmental Document is out on the street. We are here
25 to take your comments. And that's one of the reasons

1 Jillian is here. So you can go to Jillian and she can
2 record your comments verbatim, and they will be addressed
3 in the final environmental document. And we also have
4 these comment cards that we invite you to fill out with us
5 this evening or you have an opportunity to send them back
6 later. But those are two ways that are available to us
7 this evening.

8 So there's Sutter Butte Flood Control Agency on
9 one part of this project acting as a sponsor, and
10 ultimately the agency that will certify to see the
11 document and document project and is trying to move that
12 project forward. But it can't happen with only the force
13 of one agency.

14 Also the Corps of Engineers is here as well. The
15 Corps has certain authorities over the project to modify
16 federal project levees and also jurisdiction through the
17 Clean Water Act of any affects on waters of the United
18 States.

19 So representing the Corps this evening we have
20 Adam Riley standing in the back. Adam is the Corps
21 Project Manager. Because this has a certain authorization
22 required that's called 408 Permission, Adam is the
23 operation section of the Corps here in Sacramento and is
24 overseeing that permission for the project.

25 Adam is assisted by Jeff Koschak. And Jeff is

1 there in the back. Jeff is the environmental lead,
2 specifically the NEPA or National Environmental Policy Act
3 practitioner, making sure the document and the process are
4 compliant with those perspectives.

5 And we also have Matt Davis who is there in the
6 back. Matt is working on the feasibility side of things.

7 Some of you were here with us about a year and a
8 half ago when we had scoping meetings. And scoping was an
9 opportunity where SBFCA and Corps and other acronyms
10 describe -- the Sutter Butte Flood Control Agency will
11 sometimes appear like that.

12 But we held joint scoping meetings. There are
13 two parallel companion processes. One of them is
14 specifically targeted at trying to get construction this
15 year and be the start of successive years of construction
16 for about 41 miles of the west levee of the Feather River.

17 There's also a companion setting that is the
18 Corps of Engineers led feasibility study with the state of
19 California and Sutter Butte Flood Control Agency and
20 nonfederal sponsors, which determine the federal interest
21 in a project that ultimately would have to be authorized
22 by congress as well as a procreation set at the federal
23 level. So that study is underway. We're not here
24 specifically to address the feasibility study, but we
25 obviously have members of the feasibility team here if you

1 do have questions about that.

2 So, again, the focus is on the Feather River West
3 Levee Project, which is identified by the Sutter Butte
4 Flood control Agency.

5 So I interrupted myself a little bit there. We
6 have other members of the Corps of Engineers team who are
7 here. Laura Whitney is the Corps Project Manager for the
8 feasibility study. And I think I caught all four members
9 of the Corps of Engineers team.

10 We also have two board members from the Sutter
11 Butte Flood Control Agency. And they are elected members
12 of that board. Bo Sheppard as well as Gary -- Gary.
13 There we go. Right there.

14 And we also have Steve joining us this evening
15 who is a representative from our office.

16 All right. So let's get into the presentation
17 stuff.

18 I guess a little bit more housekeeping before I
19 get into that. We did have handouts that were up in the
20 front table, because that is what we're here for this
21 evening. Whether it's spoken comments that you have,
22 questions that you have, we need your feedback and input
23 on the project to ensure that we are getting the record
24 straight in terms of how the document is going forward
25 with its analysis and effects, etc.

7

1 But all the right considerations are in there
2 because we have an expert team that's pretty well at
3 knowing what the resources are. But the individuals who
4 are in the community and interested in the project know
5 the river and know these levees, and we definitely want to
6 have your input into the process.

7 We also have a copy of a brochure that has been
8 mailed out. Many of you probably were aware of the
9 meeting because of this. But there's additional copies
10 here. We have a few copies of the presentation available
11 as well. And in addition to that, we have the agenda and
12 what was the original official public notice for this
13 meeting.

14 One other resource that we have available, we
15 have about ten copies of these map books. And the reason
16 we brought these is we're very aware that most of you
17 probably have direct interest in what's happening on the
18 grounds of the levee. So we have these map books which
19 are reprints of some of the plates and figures that are in
20 the environmental document. So the members of our team,
21 we can take these out and lay them out with you. And if
22 you do have specific questions about what are the proposed
23 footprints alternatives or what fixes might be proposed in
24 any given area, we're here to talk about that. If you
25 have questions about that.

8

1 So, again, focus on the environmental process.
2 And we are here to address some questions on the
3 feasibility study, even though that's not the specific
4 purpose.

5 There was an article in the *Appeal Democrat* this
6 morning that some of you may have seen and, we definitely
7 appreciate getting the word out. But just to clarify,
8 we're here for the environmental process. We're here to
9 talk about the project planning, the alternatives, what's
10 going to happen in terms of construction on the ground,
11 what the environmental effects might be. But specific
12 questions to project design is not necessarily focussed on
13 this meeting.

14 All right. So a quick run through. The
15 demonstration is divided into four basic parts talking
16 about how we got to this point in terms of deficiencies in
17 the levees and what's needed to address those
18 deficiencies. Take a little bit of a closer look at some
19 of the measures that are proposed and how they're going to
20 combine alternatives, and lastly looking at how all of
21 those get wrapped for the environmental process for good
22 transparent public disclosure and getting your input in
23 the process and making sure that we're putting the
24 appropriate documents out on the street. But more
25 importantly, an appropriate project is getting planned and

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1 implemented.

2 Okay. So about that project background. So the
3 Sutter Butte Flood Control Agency is a public agency. And
4 who is the Sutter Butte Flood Control Agency? They are
5 the joint powers authority. Which means there are
6 individual public agencies who are acting as a single unit
7 in terms of making decisions and executing the project.
8 And specific member agencies are the counties of Sutter
9 and Butte Levee Districts 1 and 9, as well as the cities
10 of Gridley, Live Oak, Biggs and Yuba City. So all of
11 those agencies working cooperatively and together in the
12 public trust to move forward with the project.

13 So the Feather River West Levee Project was
14 initiated after an assessment district was formed to
15 provide a local share of funding. And the specific
16 purpose is again to treat the 41 miles that start all the
17 way at the upper end in the north at Thermalito Afterbay
18 and extend about three or four miles north of the
19 confluence of the Feather River with the Sutter Bypass.
20 So it's that reach of 41 miles that is the specific focus
21 of the study and where the improvements are most needed to
22 protect the basin.

23 So construction is slated to start in 2013. And
24 we are working aggressively toward that schedule from a
25 design prospective as well as environment planning;

10

1 securing all of the permits. Some of which are
2 environmental, and some of which are not. And Sutter
3 Butte Flood Control Agency is coordinating with the state
4 of California as a partner in this process. We can talk
5 more of that in a few minutes how the state is engaged in
6 this.

7 And, again, as a reminder, one of the reasons
8 we're here, NEPA and SEPA both require that there is a
9 public process and opportunity for input into that
10 process. And an EIS/EIR is a main mechanism in which that
11 happens. And that went out on the street in late
12 December. And that's why we're here this evening, at
13 least in part.

14 So a little bit more background in terms of how
15 we got here. And many of you know this as well if not
16 better than we do. But a broad brush of some of the
17 factors for the Feather River West Levee project, prior to
18 1850, prior to European settlement here in the Valley,
19 Feather River and Sacramento Rivers frequently overtopped
20 the banks. There was natural levees created over
21 geomorphic processes to a certain degree. But that was a
22 character of the Valley. A lot of the seasonal wetland
23 and mosaic in the river channels weren't always
24 necessarily just a single channel intermixed with public.
25 And that changed dynamically over time coming out of

11

1 Sierra and soggy conditions for some of the plans in the
2 Valley contributing to pondering areas and overflow.

3 So in the mid 1850s what we started to see was
4 that was the period after gold was discovered in
5 California. And we were looking at people for better and
6 more efficient ways was fracking that gold out of the
7 rock. And one of the methods that was used to do that was
8 hydraulic mining. Hydraulic mining had the effect here of
9 flushing down millions of cubic yards of sediment that
10 were blasted away. Just like if you were to stick your
11 thumb over the gardening hose, the force of the water was
12 very effective in removing entire hillsides. It was good
13 for removing gold, not so good for here in the Valley
14 where river channels became choked up, which was a problem
15 for -- it was a problem that further exacerbated the
16 flooding, because the channels could no longer hold the
17 water that would facilitate the development and
18 agriculture and everything going on around and in the
19 communities.

20 So then what started to happen was individual
21 landowners would build levees to protect their lands.
22 They would get together and over time the levees that were
23 built on individual parcel basis became more of the
24 network that was ultimately adopted as the Sacramento
25 Flood Control Project in early 1900s. So since then that

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1 does not mean that just because we have an official
2 project that we are managing cooperatively that we can
3 stop all flaws.

4 And the flood management continues to be a
5 problem today. As we know in this community, flood risk
6 is ever present. And there have been several disastrous
7 floods within the last hundred years. 1955 was a major
8 event. Shanghai Bend killed more than 38 people.
9 Thirty-eight were documented, and it's known there were
10 many others who weren't part of that recorded number.

11 1967, Oroville Dam and Reservoir were completed
12 that add some additional storage into the system. And one
13 of the things it means to the engineers is because the
14 levee heights were pre-Oroville, we don't really have an
15 overtopping problem here on the Sacramento or in the
16 Feather up in this part of the Valley. But when we hear
17 on the national news back in Mississippi where flood
18 stages can be breached, and then people often will pile
19 sandbags and get together. That's not so much how floods
20 have occurred in this part of the Valley. It's not that
21 our levees aren't tall enough, it's that they're not
22 strong enough.

23 A lot of the levees are basically made from
24 whatever material was on hand. Whether it was dredged
25 material out in the river, whether it was sands, other

1 alluvial deposits. Those things might have been readily
2 available close by, but from an engineering prospective
3 they don't build a very good levee when you look at
4 standards that are put forth by the Engineers as studied
5 by the Corps at the state level by DWR Department of
6 Resources in Central Valley.

7 In 1970 beyond Oroville, New Bullards Bar Dam and
8 Reservoir added flood storage as well. But still problems
9 exist. As evident in 1986, 1997, we had additional major
10 flood events where tens of thousands of acres were
11 flooded, and more loss of human life.

12 So it's those circumstance that have brought us
13 here and why these levees have continued to be studied and
14 why we know that further improvements are necessary to the
15 flood management system. So these deficiencies have been
16 -- some of which have done by the Corps of Engineers and
17 some specifically by the Sutter Butte Flood Control
18 Agency. And in light of the results of what those studies
19 have been telling us, that is what has contributed towards
20 the community passing the assessment district to help fund
21 the improvements that need to go in.

22 So, again, this is also a good time to talk about
23 the companion study, again, that's being led by the Corps
24 of Engineers to determine the federal interest in the
25 project. But if a project were to be authorized, again,

1 that would have to be done by congress. And there's not a
2 time certainty of when that would happen. And there would
3 have to be funding appropriate at the federal level to
4 allow that to happen. And that's also not a certainty.
5 As we all know, federal government process -- well, I'll
6 leave it to you to decide whether it works or doesn't
7 work.

8 But any way, that is why there's a need to act
9 locally. Because we have the funding that is available as
10 passed by the voters, and which has contributed to
11 hundreds of millions of dollars and capital improvements
12 like this project, matched with local dollars provided by
13 the community.

14 So taking a more in-depth look at the Feather
15 River West Levee Project, itself, and talking about the
16 study area. Once again, focused on the 41 miles that are
17 on the west bank of the Feather River and is intended to
18 decrease flood risks and improve flood management for the
19 communities of Live Oak, Biggs, Gridley, Yuba City and
20 incorporated areas. So the project is intended to protect
21 the existing population, and to increase protection of the
22 population, as well as all of agricultural infrastructure
23 that it's part of.

24 So this is a map that shows the study area. The
25 green shading shows the boundary of what the Corps of

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1 Engineers is looking at in their feasibility study. This
2 red-dashed line that you see that is just east of
3 Highway 99, that's the Feather River West Levee. And that
4 is what is the subject of the project that we're talking
5 about this evening. So it's that 41 miles that is on the
6 extreme north up by the 70 shield that come up all the way
7 down by, not quite reaching, just about three or four
8 miles upstream or north of that confluence. That's the
9 project boundary that's under study, and is the subject of
10 this EIS/EIR which is acting as a stand for our projector
11 this evening. Hopefully you find it more useful than
12 that.

13 So the primary problems and the -- so I talked
14 about how the levees in our area not so much that they're
15 not tall enough, they're not strong enough. More
16 specifically, what we mean by that, putting it in
17 technical terms, are the deficiencies of through-seepage
18 and under-seepage. And those are culprits that plague our
19 levees.

20 We have a diagram to look at in just a moment
21 that takes a closer look at that. And the treatments that
22 are typically employed are to provide barriers right
23 through the core of the levee that is less permeable than
24 what the apparent material is within that levee and its
25 foundation. And that is one mechanism that can be used.

1 The other method is it can bolster the backside of the
2 levee and provide essentially a section so its seepage
3 will pop up on the land side and create boils.

4 Let's look at the diagram that shows that a
5 little bit more closely. So those two primary phenomenon
6 is what produces when the river stages are higher. So you
7 get increased flood stage in the main stem of the river,
8 the flood plane gets inundated, and then it creates force.
9 Water weighs a lot. It has a lot of pressure behind it.
10 And that hydrostatic pressure is causing the water to not
11 only flow down the channel -- especially when the channel
12 is high, there's a lot of push back against that water.
13 The water wants to move out laterally from the channel.
14 Because the levee is there, it will find the path of least
15 resistance. And what that means is water will seek sandy
16 spots. And you'll start to see those sandy spots get
17 exploited by the water.

18 When the water is leaking through the levee,
19 that's not so much a bad thing. It's not our favorite
20 thing in the world, but it's not so much a bad thing. But
21 as that water increases velocity, it starts to carry the
22 soil material away with it. And that's when you see the
23 levee face on the backside start to erode, or you start to
24 see sand boils that pop up on the landward side of that
25 levee.

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1 So those are the primary deficiencies that we
2 see; water moving through, and it starts to blow out the
3 backside of the levee, or water moving underneath that
4 boils up on the land side of the levee. And either one of
5 those is because the levee can collapse right from the
6 place of where its foundation was, if under-seepage gets
7 to be great enough, or the levee can wash away on the
8 landward side if the water gets through, and starts to
9 carry that soil material away with it.

10 So the project is looking at measures such as a
11 slurry cut off walls to provide seepage barrier or looking
12 at berms on the landward side of the levee. There are
13 other measures being looked at as well, more localized or
14 site-specific treatments. But those different measures
15 have been combined in overall alternatives that are
16 describing the environmental document and that the effects
17 analysis has been conducted on the environmental document.

18 So just to give you a brief overview of what
19 those alternatives are; Alternative 1 looks at those
20 measures that if we were to put on the blinders and look
21 through the lens of it, if we wanted to stay primarily
22 within the existing levee footprint, what fixes might we
23 implement and what could we achieve with those fixes?
24 That's what the Engineers have devised as its
25 Alternative 1. So if we were to maximize slurry cut off

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1 walls and other things that stay within the existing levee
2 footprint, could we achieve a project that meets all the
3 objectives? That's Alternative 1.

4 Alternative 2 basically removes those blinders,
5 the same as the levee footprint does. If we were to have
6 a little bit more land available to us and use a
7 combination of berms or other factors that take a little
8 bit more real estate, does that contribute to a project
9 that is more effective from an engineering perspective and
10 flood management perspective, than if we just stayed
11 within the existing? That's Alternative 2.

12 Alternative 3 looks at those thing in
13 combination. If we took the best of Alternative 1 and the
14 best of Alternative 2, with a known fix that has a high
15 level of confidence and credibility behind it and blended
16 those two alternatives. So here we can stay within the
17 levee, and here we'll move a little bit outside the
18 existing levee. That's the blended alternative. That's
19 alternative 3. It also happens to be what's known in the
20 document as the applicant-preferred alternative for the
21 project. The Sutter Butte Flood Control Agency proponent
22 has declared as the preferred alternative to move forward
23 with.

24 So each of those three alternatives is analyzed
25 in equal level of detail on equal footing within the

1 document. But Sutter Butte Flood Control Agency has
2 called that third alternative the preferred alternative
3 that they are -- looks like it has the best bearings,
4 based on available information today.

5 So your comments on the EIS/EIR, it's within the
6 scope of what you may comment on. You can comment on
7 those alternatives, and also the effects analysis that is
8 done on each of those alternatives.

9 So the project cost is estimated to come in at
10 around 300-million dollars. The state looked through
11 those propositions that were passed by the voters of
12 California, that were 84 and 1-E. The bonds that were the
13 results of those propositions were paid for, roughly
14 76 percent of that, with balance being paid through
15 assessment district funds being raised right here within
16 the community.

17 The environmental process. And I've already said
18 a lot of this, so I might skim over a little bit of this
19 material. There are two environmental regulations that
20 are the primary focus of the environmental document. At
21 the federal level there's NEPA, that is National
22 Environmental Policy Act, and CEPA, California
23 Environmental Policy Act. And these two acts call for the
24 analysis of effects not only on the ecology or the natural
25 environment, but also the built environment. So if you

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1 look at the topics covered in the document, we're looking
2 at the effects on land use, we're looking at effects on
3 agricultural resources. We're looking at economic
4 effects.

5 So when we talk about the environment, it's not
6 really the -- it's a good thing to keep in mind, but it's
7 also very much the things that affect the community that
8 are covered in the context of the environmental document.
9 So at their core, what both of these environmental laws
10 call for is that there's good transparent public
11 disclosure of what the activity is that the government is
12 looking to undertake. But also that the -- it's also
13 looking at the effects of different -- of the different
14 project alternatives based on those topical categories.

15 And so I think I covered all the material on that
16 slide.

17 So the fact this is a joint document -- what
18 joint means is that it is more efficient. It is more
19 efficient for the agencies, it is more efficient for the
20 public, it's more efficient for decision makers, it's more
21 efficient for any other reviewers and stakeholders. That
22 if both CEQA calls for SBFCA and the Corps of Engineers in
23 granting permission for the project under the Clean Water
24 Act, if they have to essentially look at the same study
25 area, it's the same activities contemplated, the same

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1 effects that those activities might have, then it would be
2 done under single cover. And what's meant by the joint
3 document. Corps of Engineers and Sutter Butte Flood
4 Control Agency have worked cooperatively in terms of
5 disclosing what their potential action might be.

6 So there's a specific permission that I described
7 in the beginning that is required from the Corps of
8 Engineers. Grants through the state of California,
9 specifically the Central Valley Flood Protection Board to
10 the Sutter Butte Flood Control Agency to move the project
11 forward, and that is Section 408. And Section 408 refers
12 to 33 United States Code, Section 408. It's also codified
13 as part of the Rivers and Harbors Act of 1899. But beyond
14 all that legalese, essentially what it calls for
15 alterations or modifications of the Federal Flood Control
16 Project. Which the Feather River is part of Sacramento
17 Flood Control Project requires permission from the Chief
18 of Engineers to allow that modification. And that's
19 important.

20 The reason it's important is that as individual
21 entities might contemplate changes to the system, it might
22 improve conditions at that localized site. The system
23 needs to be looked at, and the integrity and original
24 function of the flood control system must be preserved so
25 that flood risk is not inadvertently being misplaced or

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1 transferred to another party. So the federal interest is
2 maintained. And it needs to be ensured that the project
3 is not injurious to public interest.

4 So those are the foundational parts of why
5 Section 408 is important. If we were to do an action
6 here, we need to make sure upstream, downstream, adjacent
7 areas aren't harmed and the overall system is functioning
8 as a system.

9 Okay. And the approval through 408 permission is
10 dependent on what is the type of modification. There are
11 deferent levels, because scope and scale of this project
12 and the fact that ultimately Sutter Butte Flood Control
13 Agency is seeking federal crediting of how this project
14 may ultimately be deemed compatible and consistent with
15 the project understudy from the feasibility study, that it
16 could be -- these improvements could be credited towards
17 that project. So this is called a major 408.

18 408 approval is dependent on looking at the
19 technical merits of the project, ensure that engineering
20 standards are being adhered to that would ensure the
21 integrity of the system, and that it's not causing
22 potential damage to the levee. The appropriate
23 documentation is being done because there's a standard of
24 care in terms of how the engineering project is being
25 implemented, constructed, and the standard in which it

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1 must be maintained. The Sutter Butte Flood Control Agency
2 is supported very closely with Corps to ensure that all of
3 the spirit as well as the specific words of 408 are being
4 appropriately and completely followed.

5 Okay. So why hold this public meeting? We've
6 talked about this. It's an opportunity for your voice in
7 the process in terms of alternatives that are analyzed;
8 the setting for affected environment, to make sure it's
9 appropriately scoped; the affects, the way they're
10 described are accurate and the findings made on those
11 affects in whether they're significant or not; and if they
12 are proposed and fair litigation.

13 It's an opportunity for you to hear more about
14 the project and be able to talk to some of the
15 representatives of the design and project team about what
16 the project entails. It's an opportunity to talk to the
17 Corps of Engineers about the feasibility study. And
18 also -- this is more superficial -- but that it's
19 complying with basic requirements of the law.

20 So based on public scoping and based on meetings
21 with individual stakeholders as well as some of the
22 agencies who have their public trust, certain resources
23 for the project such as U.S. Fish and Wildlife Service,
24 National Marine Fishery Service, at the federal level. At
25 the state level there are a number of agencies who have in

1 their public trust resources that might be affected by the
2 project. There have been comments that have been received
3 throughout that process. And these are just some of those
4 that we know and that the document takes special care to
5 look into these issues in depth.

6 So it's construction-related effects: Those
7 things such as air quality; the noise that would be
8 generated from construction; temporary loss of access or
9 disruption of utility; temporary traffic that might be
10 affected in terms of additional truck trips that would be
11 on the roadways or temporary closures for safety. All of
12 those types of temporary affects, which would only be
13 specific to the time that the project would be built, are
14 described in the document.

15 There are also property-acquisition effects
16 described in the document. Some of those are short term
17 where things are needed to be able to provide access to
18 build a project. Some of them are more in terms of where
19 the project footprint might propose a permanent
20 alteration, such as through construction of a seepage
21 berm. Or where there is more of a need to acquire for
22 long term own impact. So those affects are described in
23 the document.

24 River access for public recreation. These
25 rivers, they provide us water supply for irrigation and

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1 for domestic use for our homes and businesses. They
2 provide so many things. They provide for so many things.
3 They provide for recreation opportunities, but they also
4 put us at flood risks. But looking at positive attributes
5 of what water can do for us at the right time and in the
6 right volume is certainly something that's described in
7 the document and then places for the water supply and
8 water quality recreation prospective.

9 Vegetation removal. The Corps has a levee
10 vegetation policy that has had reinforcement over the last
11 few years. And some of the levees, there's segment of the
12 levees are not directly in compliance with that policy,
13 and there are different mechanisms that are available to
14 bring the levees into their compliance. Those are
15 described within the document.

16 And climate change and sea-level rise are also
17 topics that are discussed. Both in terms of how the
18 project construction activities may contribute to
19 additional greenhouse gases and that may have an affect on
20 climate change and then also how sea-level rise factors in
21 hydrology and how the project needs to be designed.

22 So the public comment period, again, is
23 important. And that's what we're here for this evening.
24 We do have a deadline for comments, which is February 13th
25 for which they must be received. Many ways you can submit

1 those comments; post-marked, faxed or time-stamped, either
2 through e-mail, before or on February 13th, 2013. And
3 then those responses will be published in the final
4 EIS/EIR for the Corps environmental report for Sutter
5 Butte Flood Control Agency. And those comments that are
6 received will be formally responded to.

7 So these are all different ways you can comment.
8 There are many mechanisms available.

9 And if you choose to send comments in the future,
10 either through hardcopy or through e-mail, these are the
11 addresses that have been published in numerous places, but
12 also here for your convenience again. You can send them
13 to Jeff or Ingrid. And I'll leave it back on the slide so
14 that you can have the opportunity to take those comments.

15 So let's see -- did we have any material here?
16 No, we don't. So what we want to do now is if you have
17 general comments or general questions, we will take those
18 as a group. Because that's only most efficient. If you
19 get the opportunity to hear each other's input, and
20 because the questions you have might very well be what
21 your neighbor's questions, too. But if your questions and
22 comments are very specific, or if you choose to not do
23 them in a group setting, we're here as long as you need us
24 here this evening.

25 Along with me, we can take your individual

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1 questions and comments, and using these map books to look
2 at certain areas directly on the ground and what the
3 project is for alternatives.

4 Also we invite you to come talk to Jillian
5 specifically, and she will take your comments.

6 But coming back to what we discussed here as a
7 group, what we do is we are recording this meeting in its
8 entirety -- Jillian is. So we ask that you state your
9 name for the record. And if you do provide a
10 questionnaire comment here for the group, after we
11 conclude the group part of the dialogue, if you could go
12 up to Jillian just to make sure we have your name spelled
13 correctly for the record. We would definitely appreciate
14 that.

15 So that concludes the presentation, and we are
16 here for your questions and comments.

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PUBLIC COMMENTS

SAM ALEXANDER: Has it ever occurred that, for instance, during '97, that they have actually photographed water levels along the length of this levee to see where it's actually impacting the levees?

MR. ELLIOTT: That's a good question. So just to repeat that for the group, the question was about the 1997 event.

SAM ALEXANDER: Or any high-water event.

MR. ELLIOTT: Or any high-water event, with 1997 being one example of that, what records do we have in terms of what the actual level was and what damage was done to the levee at those higher --

SAM ALEXANDER: Throughout the length of the project.

MR. ELLIOTT: Throughout the length of the project. If that's accurate to paraphrase.

So Michael, what do we have in terms of the documentation of how this 41-mile reach of the levee performs during a high water event?

SAM ALEXANDER: The reason I ask the question is because along my property, since it was built, the water has never reached the base of the levee.

MR. INAMINE: I understand. So I'm going to try

1 and get directly to your question, and then we can talk
2 again later after this discussion and get some specifics
3 about your property.

4 So in 1997 -- and I can only speak for my
5 personal experience -- there was a high-water stake that
6 was done by a variety of groups, high water staking. And
7 so the high water staking was done in '97. And to be
8 fair, the staking was done -- it wasn't consistent
9 throughout the river system. But that was used to
10 collaborate models -- computer models that were used to
11 describe what levees need to be following the accident and
12 why they need to be fixed and what type of fixes we were
13 going to put into them.

14 So there was high-water stake. And I personally
15 saw some stake that was done, and it was not real
16 consistent. Now, in your area, we can talk about that.
17 That was one of those areas that did not get wet, which
18 was significant about high-water staking is depending on
19 where you were during the system, which is a 150-year
20 event, just depends on how much water was coming.

21 SAM ALEXANDER: Where the levee is part of the
22 canal system -- is part of the canal, was essentially two
23 levees. One side on the canal and one side on the other.
24 And there's no hydraulic effect. Even if it came in
25 contact with the levee, there would be no receivers to

PH1-A2



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PH1-A2
cont'd

1 keep the water in the levee. There would be no holding
2 water from the side of the canal, at least 70-years canal
3 itself. Why didn't they participate in the leakage from
4 water coming against the levee if there's no hydraulic
5 pressure? It seems to me contradictory.

6 MR. ELLIOTT: That might be a good question for
7 Engineering Team, Michael Bessette.

8 Would you address that?

9 MR. BESSETTE: That's a great question. And
10 we're very familiar with what you're talking about.

11 So we have the levee and the canal going through.
12 And so it goes deeper than the levee itself. And in fact,
13 I think the canal levee, when we analyze it, like Mike was
14 saying before, we're using a 100-year event. We're
15 looking at it and a certain procedure, Corps of Engineers,
16 to look at under-seepage underneath the levee. And part
17 is there's an opening. And I think, as you know, that
18 canal is dry February or March. It's about eight-feet
19 deep.

PH1-A3

20 SAM ALEXANDER: Why would you keep it dry if
21 there's flooding?

22 MR. BESSETTE: For that exact reason. If there
23 were a flood event in February or March and the canal is
24 dry, that is the condition we want. And that's actually
25 the time of year it could occur.

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PH1-A4

1 SAM ALEXANDER: But the whole reason they
2 couldn't let water in the levee were circumstances.

3 MR. BESSETTE: We've talked about that. And we
4 talked a bit more about it as canal operators. It's a
5 possible option, and we're still working through design
6 features. But what they did when they built the canal,
7 is water pressure was coming underneath the levee and
8 there was pressure going up against -- when they build the
9 canal, the blanket got very thin and kind of created a
10 worsening condition.

PH1-A5

11 SAM ALEXANDER: Well, if there's two levees; one
12 on one side and one on the other --

13 MR. BESSETTE: And that's another thing we're
14 considering with the other levee there. What if the river
15 levee breaches into the canal. What happens? And with
16 that consideration, it's one of the areas of lower risk.
17 So we're still looking at that and working with Corps.
18 How you consider that's the project levee of flood control
19 and you do have bank on either side, how does that whole
20 system work? And we're still evaluating that. I know
21 that doesn't completely answer your question, but
22 that's --

PH1-A6

23 SAM ALEXANDER: If the canal is for 70 years and
24 hasn't leaked, it's not likely to.

25 MR. BESSETTE: There have been other areas where

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1 there have been serious floods where the canal has been
2 dry and flood was up. So it's very -- still a very big
3 concern. We can talk more afterwards.
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PH1-B1

1 DAN COLE: I've lived here for all my life. They
2 built the dam; they said there would be no more floods.
3 It would be gold, the water. And it seems to me, if they
4 regulate the lake level, we would not have to worry about
5 our levees. They get greedy and hold back the water and
6 then when the snow melts, it floods. They have to open
7 the flood gates like they do in water packs that fill. It
8 is rivers. Why can't when they get heavy, open the gates
9 up and let a little more out? Keep it down so it evenly
10 springs out? I mean, we shouldn't have to worry about
11 levees.

12 MR. ELLIOTT: So the question is about how
13 reservoir operations factor into flood management. And
14 the reservoir, would that take pressure off the levees or
15 be the need for levee improvements?

16 MR. INAMINE: So you're absolutely right. That's
17 what Oroville -- that's a large part of what Oroville
18 project was about, which was financed by the State Water
19 Project, State Water Contractors. But there's 750,000
20 feet of storage in Oroville Dam for the purposes of flood
21 control. So when water hits reservoir, big peaks of high
22 volumes flow that normally come down through the system
23 are continuant and stored in the reservoir and released
24 gradually -- not released gradually enough, like in 1997,
25 and in other occasions. But there's always a tradeoff,

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1 just as you're pointing out.

2 I would take maybe a biassed approach to this,
3 but there's always a tradeoff for water and water supply
4 and keeping enough empty space for wet part of the season
5 in order segway the floods. That's always a -- I will say
6 that if you look at the flows down the river, pre-Oroville
7 and post-Oroville, there's a big difference. I mean, it
8 has greatly reduced risk downstream and is an example of
9 that everywhere else in the system in Central Valley.

10 Virtually everywhere levees got to be raised or
11 forged, or channel capacity has to be -- we're fortunate
12 because Oroville, we don't have to raise levees because
13 these levees were essentially overbuilt. They're higher
14 than they need to be because they were constructed
15 pre-Oroville. So while in a perfect world if Oroville was
16 being operated strictly for flood control, you might get
17 more benefit out of it if it was paid for by essentially
18 State Board Contractors. And a lot of that flood benefit
19 is provided by all of us or at least we reap the benefits
20 in stages.

PH1-B2

21 DAN COLE: They should pay for the levees. If
22 Southern California wants our water, they should pay for
23 our levees.

24 MR. INAMINE: There's a lot of folks who would
25 like to have Southern California pay for that. That's

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1 probably more of a political solution about how the system
2 is set up. I can only speak to the way this system was
3 constructed way back and was turned over to the federal
4 government and the Corps of Engineers as the authorized
5 system. It was never part of the flood -- the state water
6 project system that it is now is part of it.

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PH1-C1 1 MR. ROMANDO: While we're on the topic, I wanted
2 to ask -- it sounded like the state, there was a set
3 amount of money that was coming from the state? 270 -- I
4 don't know.

5 MR. ELLIOTT: What's the exact amount?

6 MR. INAMINE: Well, roughly, the project was
7 about 300 million, and 75 percent was from the state --
8 throughout the state.

PH1-C2 9 MR. ROMANDO: And that 25 percent is to come from
10 local --

11 MR. INAMINE: Assessment.

PH1-C3 12 MR. ROMANDO: So is there any control -- many
13 projects run over budget. If this goes over by a few
14 hundred million, which is possible, is there any control?
15 Does the state funding increase to that 75 percent or does
16 it remain set at that pre-project level and the taxpayers
17 are responsible for whatever runs over budget?

18 MR. INAMINE: Okay. That's a complicated
19 question. Let me try.

20 I think I know what you're after. Spare me where
21 I go wrong. Okay. So this is funded, the money to pay
22 the state, our 75 percent is all bond money. And there's
23 just so much money available for this type of project.
24 And it's budgeted and authorized through the state budget
25 process. So when it's gone, it's gone. The assessment

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1 money that leverages that later amount to a certain
2 extent, that's a pretty tight budget, too. It is tough
3 getting assessment passed. There's not a lot of local
4 money used. So as far as we're concerned, that's it.
5 That's the money we have allotted to do this project.
6 That's what we're going to stay within that budget.

7 Now, there's another federal interest in the
8 region, and Chris described it earlier. And that is the
9 federal feasibility study. So this 408 project that we're
10 talking about here, this is all state, local money. This
11 is a local project that we're going to build in advance to
12 the Corps of Engineers. But the state doesn't just say,
13 "Here's 200 million. Go do good things with it." They
14 say, "We want to make sure you guys stay coordinated with
15 this other Corps feasibility study. Make sure you do
16 something that the Corps will likely build so that if you
17 build something that looks a lot like the federal project,
18 in five or ten years, that we get credit for it." We as
19 in the state gets credit for it.

20 That does two things; it leverages more bond
21 money so we can spend it on other projects, other projects
22 within the basin. But it's also a good backup plan. Most
23 of you may be aware of what's happening down south.
24 SAFCA, just as you described, got a local assessment, 75
25 percent funding from the state of California. But they

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1 didn't complete the ring around Natomas. So the backup
2 plan was to have the Corps of Engineers, because they had
3 the federal study that was completed backup plan, was to
4 have Corps of Engineers finish the job. It is not our
5 intention to do that, obviously, here. And we have more
6 strict -- we have more difficult financial issues to
7 address here. We're not like the welder communities in
8 Sacramento.

9 But that's still a pretty viable backup plan is
10 to have two things going on; state local funding to do it
11 ourselves here for our project, and if for whatever reason
12 something goes awry, then we have a federal project to
13 support completing the job.

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PH1-D1

1 KATHY HODGES: Would they stop in the middle of
2 this because they were three-quarter of the way done with
3 the project and all the sudden we run out of money? Would
4 the project get stopped right there where it is?

5 And the other question is whenever you're doing
6 the -- so the maps, like, marks on the map, do you do a
7 couple miles at a time or five miles at a time as far as
8 the levee goes? Is it broken up into pieces?

9 MR. INAMINE: So you saw a map that had 41 miles
10 of levee that are targeted for construction. And so that
11 is it. In other words, you have to complete, in order to
12 achieve these goals, flood protection for the urbanized
13 community from Yuba City north, it only works if you
14 complete the whole thing. So our condition is to complete
15 everything with state and local money from Thermalito down
16 to Star Bend. So we're not going to stop until we get the
17 whole system in. Because they're all interdependent
18 water. And it doesn't really care where the funding stops
19 or starts and where the project begins and ends. It's
20 just to complete the project.

21 So now for contract administration purposes and
22 in terms of prioritizing areas to create a risk, the
23 project is broken up into phases. So the first phase is
24 about 15 miles extending from Shanghai Bend to just north
25 of Live Oak. That's the first phase. And the reason

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1 that's the first phase is because that's some of the
2 lousiest levee in the system. That's also where the
3 greatest number of people live, and that's where our first
4 installment is.

5 So in terms of consequences of a levee breaking
6 and in terms of hazard, that is one of the lousiest levees
7 in the system. They all happen to be right there. So
8 that's the first phase of construction that will take
9 place in '13, '14.

10 And then the next phase of construction is this
11 area from Live Oak all the way to Thermalito. They'll be
12 another phase of construction just south of Yuba City.
13 They'll be another phase of construction to address some
14 specialty areas in between these areas where there's
15 penetration things like railroads and bridges and so on.
16 So it's phased in segments for the contract
17 administration.

18 MR. ELLIOTT: We have this poster that is on the
19 easel back there. It's also described in the
20 environmental -- the phase that Mike described are
21 color-coated in here. So the first phase is the one in
22 green, and then the additional future phases are shown in
23 blue, orange and purple. The first one right there --

24 There was another hand --
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PH1-E1

1 UNIDENTIFIED MALE FROM AUDIENCE: I've got a
2 different twist here. This will be more directed towards
3 DWR. But as a family landowner inside the levee system,
4 we were never paid when the Oroville Dam was built. I
5 think the rights paid just -- but due to the clean water
6 discharge, we as landowners have been -- our property run
7 from (inaudible) Creek up to about -- I don't know -- a
8 ways past Simple House Road on the east side. We've been
9 absolutely devastated along our banks. And very honestly
10 I certainly understand the advantages of getting the dam
11 as high as possible, because we're way undersold down
12 south in terms of water. And I certainly understand
13 benefits of foreign levee. There's a tremendous amount of
14 worth tech. But has any thought ever been given to do
15 something for the landowners within the levee system?

16 MR. INAMINE: You mean on the water side of the
17 levee? I don't represent DWR, so make of whatever I say
18 what you will.

19 So I'm aware of those issues, and so you're
20 referring to the bank erosion issues within the system?

PH1-E2

21 UNIDENTIFIED MALE FROM AUDIENCE: Nothing has
22 been done in terms of jail maintenance in terms of Feather
23 River, whatsoever. I mean, we follow DWR over and over
24 and over, and all we got is lip service.

25 MR. INAMINE: So DWR does have responsibility to

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1 channel. As to the -- I know the operation of Oroville
2 Dam has been very controversial to not only landowners but
3 tribes. And as part of the Central Valley plan, the DWR
4 plan, they have -- Department of Water Resources has
5 considered just those issues as part of the reservoir and
6 operation. They're looking at reoperating reservoirs.

7 So some of the issues, like the gentleman in the
8 back raised, about flood, including things like channel
9 maintenance and operation, I don't know what the specific
10 results of that are. That's a work in progress. There is
11 an opportunity in that land-placing effort, that planning
12 effort is still going on in the Feather River. And so
13 we're going -- I say we -- a separate study that's being
14 funded by the Department of Water Resources, both sides,
15 both the east side and west side, have banded together to
16 do what DWR would normally do, is to accept comments in
17 just these kinds of issues for the Feather River region.
18 So it's not a big dollar I have for this, but it is an
19 effort to address local issues, projects like the ones you
20 raised about the Feather River.

21 So we will be on a totally different venue,
22 different project. This is a DWR record that has to be
23 going through local agencies like ours. There'll be an
24 opportunity to address those issues. We're not addressing
25 them here. We're not DWR. We're just trying to fix the

PH1-E3

1 levees. But they'll be an opportunity to take those up in
2 a more formal way in regional plans.

3 UNIDENTIFIED MALE FROM AUDIENCE: I know it's a
4 terrible thing to say, but foreigner levee -- and that's
5 very selfish to say, because obviously I live here in
6 Gridley. And won't that -- we, as landowners,
7 that's -- the best thing to happen is for the levee to
8 break and take pressure off us. But that's not going to
9 happen. And I understand.

10 We went to DWR, they built Oroville Dam and that
11 question was asked, "What about the rights?"

12 "We're not going to do that. We're going to
13 litigate with that money. It's cheaper dollars down the
14 road." That was DWR's own words. Reformation act
15 document's in full. I mean, this has been an ongoing
16 thing for a long time; 80 to 100 grand since Oroville Dam
17 had been in business. And I realize, again, it's very
18 beneficial, but it did not give us any protection
19 whatsoever or the Sacramento land.

20 MR. INAMINE: So I can't speak to specific
21 issues, but it would be important for you to get those
22 comments into the record. So that it's documented and can
23 be taken down.

24 MR. ELLIOTT: I believe there was another
25 question.

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PH1-F1

1 RON ROMAN: You stated that projects are in
2 phases. Are you going to, for instance, we're talking
3 about possibility of bidding the first one out in February
4 or later this year. Now, are you going to put other
5 projects or other phases out to bid as a project is going,
6 or are you going to wait until that one's completed and
7 start the next phase and start the next phase?

8 MR. BESSETTE: So that's a good question. We're
9 going to be bidding the first 15 miles around the
10 Yuba City area; Shanghai Bend up to Live Oak, this year in
11 March. So we plan to go out to bid on March 18th, open
12 bids on April 19th, and award a contract this summer for
13 that project. So that project will take two years to
14 construct; 2013 and 2014.

15 The next project we're going to go out to bid
16 early 2014 and that'll be for this area up north all the
17 way up to Thermalito. So that will be bid in early 2014,
18 award contracts and get into construction in spring/summer
19 of 2014 and build that in two years of 2014 and 2015.

20 At the same time in 2014 probably towards the
21 latter part of 2014, we'll issue another set of bid
22 documents for what we call the gaps contracts. Filling in
23 areas where Mike talked about, penetrations, railroad
24 crossings and bridges, that'll be a special contract. So
25 they'll be ongoing work throughout 2013, 2014 and 2015.

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1 RON ROMAN: With possibilities of overlapping the
2 jobs and everything?

3 MR. BESSETTE: Exactly. Yes.

4 So we'll be very busy these next three years.

5 RON ROMAN: Thank you.

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PH1-G1

1 EUGENE MASON, JR.: Your plan to discuss the
2 slurry walls going down to lower levels to try to
3 eliminate seepage and boils. I know I've discussed it and
4 they're talking about going potentially 90 to 100 feet
5 down. Agricultural wells in northern areas sit about 70
6 to 75 feet. Question comes in, has there been studies
7 accomplished for groundwater recharge? And if so, what is
8 the groundwater being looked at?

9 If not, how will this affect a diminishing level
10 of groundwater area and how will those effects crossover
11 to the agricultural side where your report? Does it
12 discuss that agriculture? Does it recharge an area as
13 well?

14 So if you're going to take away water recharging
15 from the river side, you're going to count on more coming
16 from the agricultural irrigators. So it's kind of a long
17 question, but it all surrounds around groundwater.

18 MR. BESSETTE: That's a good question. There was
19 a study done -- original groundwater study done to see
20 what existing conditions are and what the effect would be
21 of building cutoff walls over most of the 41 miles of
22 levee all the way through there. And you're right, a lot
23 of the levees, a lot of the slurry walls go about 40 to 60
24 feet deep. There are a few areas where we have to go
25 deeper. What's recognized is we need to get through the

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1 sand and gravel, as Chris was describing. So when they
2 looked at the original effects, they found they were
3 negligent. They were looking at general groundwater
4 friends in the basin end to go north to south, down by the
5 southern bypass, and actually some of the cutoff falls in
6 the south were slightly raised groundwater levels.

7 But what I think you're describing is one of the
8 wells, there also could be some very localized effects
9 near the levee itself. A lot of the wells go deeper from
10 what we've seen. If there were a shallow well very close
11 to the levee, that would be something we'd want to take a
12 look at. But from a regional standpoint, the shallow
13 walls overall groundwater region in the basin itself.
14 It's a document that was done in support of the
15 environmental study.

16 I don't know if that answered your question.

PH1-G2

17 EUGENE MASON JR.: It somewhat does. It's not
18 overly assuring, because I know the studies somewhat. And
19 in the written studies -- I'm not sure, but I don't have
20 the data in front of me.

21 MR. BESSETTE: Okay. And we can talk more a
22 little bit after as well on some of the specifics.

23 MR. INAMINE: In realizing the alternatives
24 considered, there was a no-action alternative. And all
25 the other three alternatives were looking at a full 41

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1 miles of levees. And it's my understanding that a major
2 impetus for this, beyond just basic human safety, is the
3 violation of state code for having 200-year flood
4 protection on urban areas; right?

5 EUGENE MASON JR.: That's correct.

6 MR. INAMINE: So was there any study to look at
7 the minimum amount necessary of levee improvements to
8 protect that to achieve that 200-year urban area project
9 and then no more, essentially? Because I can't imagine
10 that you need 41 miles to protect Yuba City, right?

11 This has actually been looked at at the Corps
12 feasibility study in a separate effort and the area plan
13 that's referenced in the environmental document. So
14 obviously there is public agency, there is an
15 interest -- well, there's a charge to look at the most
16 cost-effective solution for whatever objective is being
17 achieved. And so for 200 level flood protection in two
18 separate efforts, both in state area plan before we got
19 money from the state, or agreement to get money from the
20 state, the state said, "Well, show us that you're doing
21 the most cost effective -- providing the most
22 cost-effective solution." Agencies and the federal effort
23 ask the same question. "What are the goals and how can
24 you achieve this in the most cost-effective means?" And
25 that often means minimal fix. So a variety of

1 alternatives were looked at including both separate
2 efforts, and they were very separate. Including ring
3 levees around Yuba City, ring levees that were very short,
4 just north and south of Yuba City. Little ring levees
5 around Biggs and Gridley and portions of Live Oak. Just
6 fixing short reaches of the Feather River to protect the
7 most number of people. Unfortunately, there's short
8 regions, like in the latest study, there was 32,000 people
9 that were still at risk.

10 Berms were looked at as a least cost alternative.
11 Unfortunately the effects on and in particular in an
12 environment like this, it is very expensive and has huge
13 impacts by taking so much land. The very controversial
14 Cherokee Bypass was looked at as an alternative. We were
15 taking Cherokee Canal -- probably read about this in the
16 newspaper -- widening it by many thousands of feet and
17 diverting water off the Feather River and the Butte Basin.
18 And that was looked at and of course that was ridiculously
19 expensive.

20 So we didn't just come up with a solution because
21 it was easy. It just happens to be that in general it
22 applies to a lot of structure fixing stuff in place and
23 minimizing the effects, effective right-of-way take, just
24 generally is the more cost effective solution.

25 We also looked at a number of setback plan

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1 levees. And we were required to look at them in the state
2 study and federal study. So there were setbacks that were
3 evaluated for the north part of the basin and in area of
4 widening the hydraulic prism in this region and also south
5 of Yuba City. It was very expensive. And, again, that's
6 how we arrived at this levee repair scene of which
7 essentially 85 percent of the work --

8 MR. ELLIOTT: But, in fact, if I'm recalling part
9 of your original question, there are in fact reaches
10 within this 41 miles for which no geotechnical measure is
11 considered necessary to achieve the 200 protection. But
12 those are relatively few. It is found that based on the
13 level analysis that's been done, that the vast majority of
14 each piece of the 41 miles has some deficiency relative to
15 through-seepage or under-seepage criteria necessitating to
16 achieve 200 year north of Yuba City and 100 year south.

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PH1-H1

1 JEFF FREDERICKS: Going off of the other
2 gentleman's comment, I know in this area, north, we have
3 quite a bit of extra freeboard. Why is there the need to
4 replace all that dirt and bring the levee back up to the
5 elevation it is now if we have -- I don't know -- eight
6 feet of extra freeboard? Why do those levees need to be
7 built back to the elevation they're at now?

8 MR. BESSETTE: As part of elevation process the
9 Corps looks how you're going to alter that federal levee.
10 And the least amount of work you need to do, the better
11 off you are to get your permits through the Corps and
12 Inter-Corps approval. So for us to alter the levee by
13 lowering it, there would have to be that type of thing.
14 If we're building it back to its existing gentry, and
15 we're just strengthening the place, it's a much more
16 benign type of project. We're not making a lot of changes
17 to the federal project. So that's why. It was an easier
18 way to get ourselves through that review in approval
19 process. That's simply the answer.

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PH1-H2

1 DARLENE FREDERICKS: But is it the best way? I
2 mean, it's the easiest way, but is it the best way?

3 MR. BESSETTE: It's the easiest way from a
4 permitting standpoint, but from a construction standpoint,
5 it's obviously a little more work. But at the end of the
6 day, the community gets the protection it needs. So we're
7 not looking to cut corners as part of this process.

8 MR. INAMINE: There's also one of the design
9 goals is to keep the same level of protection. And even
10 though these levees don't perform the way they should have
11 to the top of the levee, is to ensure that they're not
12 producing protection -- they're not reducing level of
13 protection.

14 What's going to happen here in 10, 20 years is
15 somebody else is going to do another hydrology study over
16 Oroville Dam. And it may get reoperated. Global warming,
17 all those, believe it or not, engineers are going to be
18 changing hydrology and adjusting suffers. Hydrology is
19 going to change, and there's going to be some study that's
20 going to change when the water service elevation is and
21 we're designing two today. So it's in our interest not to
22 reduce the height of any of these levees. And in
23 anticipation, the hydrology is going to change and
24 probably go up. Generally every time somebody does a
25 hydrology study it generally goes up a little bit.

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1 So in order to make sure this is a no-regress
2 project, we're keeping everything the same. We're not
3 adding anything. We're not taking anything away.
4 Everybody will get the same level of protection they had,
5 and the least level of protection they had will be prism
6 and not dropping it. And when that study comes through
7 again in ten years or whenever when water comes up, it
8 doesn't really cost us anything to restore anything in
9 place or restore the original prism. And it does make the
10 living easier, but the primary reason is to make sure it's
11 a no-regress project.

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PH1-I1

1 SANDRA WALLER: How is this project going to deal
2 with high pipelines through the levee?

3 MR. BESSETTE: She asked how is this project
4 going to deal with pipelines through the levee.

5 The existing pipelines will be adjusted to
6 conform to current design standards. So if they don't
7 conform, the project is going to realign those pipelines.
8 If the pipelines are not being utilized anymore, we'll
9 remove the pipeline. We're working with all of the owners
10 of those pipelines to relocate and readjust them to
11 conform to current standards.

12 Let's take down your information.

PH1-I2

13 SANDRA WALLER: Any ways, they're there. They're
14 permitted. They were amended when the levee was
15 constructed. My question is, who is doing slurry? What
16 do you do? We use them.

17 MR. BESSETTE: Right. Well, we would have to
18 temporarily relocate them, keep them -- the irrigation
19 lines, they would have to be kept in service in some
20 manner. And we would do temporary facilities. And then
21 the permanent facility would be adjusted to standard.
22 They'll be dealt with as part of a project. It depends on
23 what the language of the permits say. If they're
24 permitted, and depending on language of what the permit
25 says, it will depend on who pays for the rehabilitation.

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PH1-I3

1 If there were pre -- before the levee, so they would
2 probably be a project box. It would only be if the
3 language within the permit says that the owner of that
4 facility has to be relocated as part of relocation flood
5 project, then that person would have to pay for it.

6 But we researched all the facilities that we know
7 about. We pulled all the permits and we have the
8 language, so maybe I can get your information and we can
9 give you that information about your facility.

10 SANDRA WALLER: Well, there were no permits on
11 those because it was court ordered. It went through the
12 court system that those had to be put there.

13 MR. BESSETTE: Then most likely the project would
14 pay for those.

15 SANDRA WALLER: I think Steve Landberg probably
16 has it.

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PH1-J1

1 JUSTIN KELLY: Justin Kelly, farmer in Live Oak.
2 When will -- on the acquisition side -- when will
3 they be presented to landowners along the levee? I know
4 some landowners have received acquisition proposals and
5 others haven't.

6 MR. BESSETTE: Barry is part of our team and he's
7 the one coordinating with our engineering team, and he's
8 taking the leads on that effort.

9 MR. O'REGAN: So we're dealing with -- so we're
10 focusing in the Yuba City, Live Oak area currently and
11 moving north. And for the project area plans we talked
12 about earlier, we would expect to make all those in the
13 spring, pay all that, and then project D, which is Gridley
14 area and Biggs, we would begin that process. And that's
15 going to extend into the summer. So we're working through
16 getting those as we move forward.

PH1-J2

17 JUSTIN KELLY: So will there be a legal -- what
18 would be the natural recourse if we did not like that
19 proposal presented to us?

20 MR. O'REGAN: So what we would do is it's a long
21 process. We would go in the field and show you how the
22 project needs to be constructed and how we could operate
23 the project. The project is built, and they know we raise
24 property and we negotiate with you. And on what is
25 required in the operation of the project.

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PH1-J3

1 JUSTIN KELLY: And am I correct in understanding
2 that in this book you have parcel by parcel of what the
3 project will appear to be like on completion? So for
4 those who have not seen any of the projects and how they
5 affect our land, they're present in that book up there?

6 MR. O'REGAN: No, but I have that description.

7 JUSTIN KELLY: I appreciate that. Thank you.

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PH1-K1

1 JEFF HUGHES: When are you going to address what
2 happened to the land and river down there in South Sutter
3 County? The one that is the U.S. Fish and Game Service or
4 the California one? All it is is blackberry vines, gold
5 trees, brush and sandbars.

6 MR. ELLIOTT: So the question is about the
7 material that's in the channel part of it by Fish and Game
8 and whether that represents constriction of and how that
9 constriction influences the deficiencies that we see in
10 the levees and flood rights.

11 So how can we best answer that question? And
12 knowing the prior conversation, the question specifically
13 is what might that influence be and what we need to do
14 today?

15 MR. INAMINE: So at that location there's a big
16 slug of seven -- in the river hydraulic gets back times.
17 It's hydraulic. So we've looked at that through our
18 consultation, and the thing about just simply dredging all
19 of that material out of the river is that doesn't change
20 what we have to do for the levees. We're not going to be
21 able to just take all that material out and the water
22 elevation drops. It's a little more complicated than
23 that. The water service elevation is going to come up to
24 the top, and what happens downstream of that location, the
25 other issue with removing that kind of sediment is so a

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1 big slug of hydraulic mining that's coming down from the
2 system, and what's happened in past events, you get a high
3 water event. And they dredge that part of the system, and
4 it goes up, and you're left with the same elevation. You
5 need to mediate the levees. So the problem is engineers
6 at those lower locations, you still have to fix the levee
7 to withstand certain water surface elevation regardless of
8 what happens in the channel.

9 There's another group that's called Lower Feather
10 River Corridor Management Program, and they're looking at
11 that. At what you're describing, removing dredging
12 material, but as far as this project is concerned, we've
13 looked at that and it doesn't make any difference with
14 respect to geotechnical issues. You still got to fix the
15 levees. The water is still going to come up on the levee,
16 and you still have to provide an awful lot of amount of
17 strength to keep the water on the right side of the levee.

18 MR. ELLIOTT: Chris, if I can turn to you, I've
19 heard the engineers -- Mike addressed it very well -- in
20 terms of hydrology aspects and by dropping the invert of
21 the river. It doesn't have that corresponding effect
22 water service, but also I've heard the concept described
23 essentially by dredging could be making under-seepage
24 worse by shortening the seepage fact.

25 Perhaps you can talk about that a little bit?

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1 MR. KRIVANEC: Yeah. As Chris said earlier, the
2 cross section of the levee, it's this is showing a very
3 deep part of the river here. But with this phenomenon
4 under-seepage through here, a lot of time main channel is
5 further away from levee, and sands and gravel and
6 underneath. But sometimes when you're dredging, what
7 you're referring to is you're taking some of that material
8 away that the water pressure has to pass through. So
9 you're actually opening it up more to come up the levee.

10 Now, some of the dredging is going to be further
11 away from the levee. But in areas, if you start moving
12 some of the clay blanket and exposing more gravels, it's
13 going to go under more velocity, more pressure coming up
14 the levee.

15 MR. ELLIOTT: Probably about the time where we
16 can wrap up the audiotape of the general conference.

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PH1-L1

1 UNIDENTIFIED MALE FROM AUDIENCE: It's a general
2 topic. I just wanted to mention that it might be there,
3 but it wasn't immediately obvious on the Sutter Flood
4 Control Web site where you can submit an electronic
5 comment on the Web site itself. And it'd be nice if that
6 was at least made obvious to be put in place if it's not
7 already. So people not intending to comment here can do
8 that.

9 MR. ELLIOTT: Thank you. We'll look into that.
10 Okay. With this, I think we'll close the general
11 question and comments. We will be here as long as we need
12 to to address some additional questions and comments. So
13 we invite you to come up to us.

14 (Thereupon the meeting adjourned at 7:46 p.m.)
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REPORTER'S CERTIFICATE

[illegible]

I, JILLIAN M. BASSETT, a Certified Shorthand Reporter, licensed by the state of California and empowered to administer oaths and affirmations pursuant to Section 2093 (b) of the Code of Civil Procedure, do hereby certify:

The said proceedings were recorded stenographically by me and were thereafter transcribed under my direction via computer-assisted transcription;

That the foregoing transcript is a true record of the proceedings which then and there took place;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on
February 1, 2013.

JILLIAN M. BASSETT
Certified Shorthand Reporter No. 13619

Response to PH1-A, Sam Alexander

PH1-A1

So in 1997, and I can only speak for my personal experience, there was a high-water stake that was done by a variety of groups, high-water staking. And so the high water staking was done in 1997. And to be fair, the staking was done—it wasn't consistent throughout the river system. But that was used to collaborate models—computer models that were used to describe what levees need to be following the accident and why they need to be fixed and what type of fixes we were going to put into them.

So there was high-water stake. And I personally saw some stake that was done, and it was not real consistent. Now, in your area, we can talk about that. That was one of those areas that did not get wet, which was significant about high-water staking is depending on where you were during the system, which is a 150-year event, just depends on how much water was coming. [See chapter 3.1, Section 3.2.1.1: Sacramento River Flood Control Project Levee Height Requirements; Section 3.1.2.2: Levee Deficiency Evaluation] Comment did not necessitate change to the Final EIS.

PH1-A2

So we have the levee and the canal going through. And so it goes deeper than the levee itself. And in fact, I think the canal levee, when we analyze it, like Mike was saying before; we're using a 100-year event. We're looking at it and a certain procedure, USACE, to look at under-seepage underneath the levee. And part is there's an opening. And I think, as you know, that canal is dry February or March. It's about eight-feet deep. [See Chapter 3.1, Sections 3.1.2.1; 3.1.2.2: Channel Capacity, Levee Dimensions, and Site-Specific Flood and Discharge Information; Under-Seepage; Potential Levee Failure Mechanisms] Comment did not necessitate change to the Final EIS.

PH1-A3

For that exact reason. If there were a flood event in February or March and the canal is dry, that is the condition we want. And that's actually the time of year it could occur. [See Chapter 1, Section 1.3.2; Chapter 3.1, Sections 3.1.2.1; 3.1.2.2: Channel Capacity, Levee Dimensions, and Site-Specific Flood and Discharge Information; Potential Levee Failure Mechanisms] Comment did not necessitate change to the Final EIS.

PH1-A4

We've talked about that. And we talked a bit more about it as canal operators. It's a possible option, and we're still working through design features. But what they did when they built the canal, is water pressure was coming underneath the levee and there was pressure going up against. When they build the canal, the blanket got very thin and kind of created a worsening condition. [See Chapter 2, Section 2.6.2.2] Comment did not necessitate change to the Final EIS.

PH1-A5

And that's another thing we're considering with the other levee there. What if the river levee breaches into the canal? What happens? And with that consideration, it's one of the areas of lower risk. So we're still looking at that and working with USACE. How you consider that's the project levee of flood control and you do have bank on either side, how does that whole system work? And we're

still evaluating that. I know that doesn't completely answer your question, but that's— [See Chapter 2, Section 2.6.2.2] Comment did not necessitate change to the Final EIS.

PH1-A6

There have been other areas where there have been serious flood s where the canal has been dry and flood was up. So it's still a very big concern. [See Chapter 2, Section 2.6.2.2] Comment did not necessitate change to the Final EIS.

Response to PH1-B, Dan Cole

PH1-B1

You're absolutely right. That's a large part of what the Oroville project was about, which was financed by the State Water Project, State Water Contractors. But there's 750,000 feet of storage in Oroville Dam for the purposes of flood control. So when water hits reservoir, big peaks of high volumes flow that normally come down through the system are contained and stored in the reservoir and released gradually—not released gradually enough, like in 1997, and on other occasions. But there's always a trade-off, just as you're pointing out. I would take maybe a biased approach to this, but there's always a trade-off for water and water supply and keeping enough empty space for the wet part of the season in order to segue the floods. If you look at the flows down the river, pre-Oroville and post-Oroville, there's a big difference. I mean, it has greatly reduced risk downstream and is an example of that everywhere else in the system in Central Valley. Virtually everywhere levees got to be raised or forged, or channel capacity has to be—we're fortunate because Oroville, we don't have to raise levees because these levees were essentially overbuilt. They're higher than they need to be because they were constructed pre-Oroville. So while in a perfect world if Oroville was being operated strictly for flood control, you might get more benefit out of it if it was paid for essentially by State Board Contractors. A lot of that flood benefit is provided by all of us or at least we reap the benefits in stages. Comment did not necessitate change to the Final EIS.

PH1-B2

There's a lot of folks who would like to have Southern California pay for that. That is probably more of a political solution about how the system is set up. I can only speak to the way this system was constructed way back and was turned over to the federal government and the USACE as the authorized system. It was never part of the flood—the state water project system that it is now is part of it. Comment did not necessitate change to the Final EIS.

Response to PH1-C, Mr. Romando

PH1-C1

Well, roughly, the project was about 300 million, and 75% was from the state—throughout the state. Comment did not necessitate change to the Final EIS.

PH1-C2

Assessment. Comment did not necessitate change to the Final EIS.

PH1-C3

This is funded, the money to pay the state, our 75%, is all bond money. And there's just so much money available for this type of project. And it's budgeted and authorized through the state budget process. So when it's gone, it's gone. The assessment money that leverages that later amount to a certain extent, that's a pretty tight budget, too. It is tough getting assessment passed. There's not a lot of local money used. So as far as we're concerned, that's it. That's the money we have allotted to do this project. That's what we're going to stay within that budget. Now, there's another federal interest in the region, and Chris described it earlier. And that is the federal feasibility study. So this 408 project that we're talking about here, this is all state, local money. This is a local project that we're going to build in advance to the USACE. But the state doesn't just say, "Here's 200 million. Go do good things with it. They say, "We want to make sure you guys stay coordinated with this other USACE feasibility study. Make sure you do something that the USACE will likely build so that if you build something that looks a lot like the federal project, in five or ten years, that we get credit for it. "We" as in the state gets credit for it. That does two things; it leverages more bond money so we can spend it on other projects, other projects within the basin. But it's also a good back up plan. Most of you may be aware of what's happening down south. SAFCA, just as you described, got a local assessment, 75% funding from the state of California. But they didn't complete the ring around Natomas. So the backup plan was to have the USACE, because they had the federal study that was completed back up plan, was to have USACE finish the job. It is not our intention to do that, obviously, here. And we have more strict—we have more difficult financial issues to address here. We're not like the welder communities in Sacramento. But that's still a pretty viable back up plan is to have two things going on; state local funding to do it ourselves here for our project, and if for whatever reason something goes awry, then we have a federal project to support completing the job. [See Chapter 1, Section 1.5] Comment did not necessitate change to the Final EIS.

Response to PH1-D, Kathy Hodges

PH1-D1

You saw a map that had 41 miles of levee that are targeted for construction. And so that is it. In other words, you have to complete, in order to achieve these goals, flood protection for the urbanized community from Yuba City north, it only works if you complete the whole thing. So our condition is to complete everything with state local money from Thermalito down to Star Bend. So we're not going to stop until we get the whole system in. Because they're all interdependent water. And it doesn't really care where the funding stops or starts and where the project begins and ends. It's just to complete the project.

So now for contract administration purposes and in terms of prioritizing areas to create a risk, the project is broken up into phases. The first phase is about 15 miles extending from Shanghai Bend to just north of Live Oak. That's the first phase. The reason that's the first phase is because that's some of the lousiest levee in the system. That's also where the greatest number of people live, and that's where our first installment is.

So, in terms of consequences of a levee breaking and in terms of hazard, that is one of the lousiest levees in the system. They all happen to be right there. So that's the first phase of construction that will take place in 2013/2014. The next phase of construction is this area from Live Oak all the way to Thermalito. There will be another phase of construction just south of Yuba City. There will be another phase of construction to address some specialty areas in between these areas where there

are penetration things like railroads and bridges and so on. So it's phased in segments for the contract administration. [See Chapter 2, Section 2.2.3] Comment did not necessitate change to the Final EIS.

Response to PH1-E, Unidentified Male

PH1-E1

You mean on the water side of the levee? I don't represent the California Department of Water Resources (DWR), so make of whatever I say what you will. I'm aware of those issues, and you're referring to the bank erosion issues within the system? Comment did not necessitate change to the Final EIS.

PH1-E2

DWR does have responsibility to channel. The operation of Oroville Dam has been very controversial to not only landowners but tribes. And as part of the Central Valley plan, the DWR plan, they have considered just those issues as part of the reservoir and operation. They're looking at re-operating reservoirs. [See Chapter 2, Section 2.7.2.2]

So some of the issues, like the gentleman in the back raised, about flood, including things like channel maintenance and operation, I don't know what the specific results of that are. That's a work in progress. There is an opportunity in that land-placing effort, that planning effort is still going on in the Feather River. A separate study that's being funded by DWR, both sides, both the east side and west side, have banded together to do what DWR would normally do—accept comments on just these kinds of issues for the Feather River region. So it's not a big dollar I have for this, but it is an effort to address local issues, projects like the ones you raised about the Feather River.

So we will be on a totally different venue, different project. This is a DWR record that has to be going through local agencies like ours. There will be an opportunity to address those issues. We're not addressing them here. We're not DWR. We're just trying to fix the levees. But there will be an opportunity to take those up in a more formal way in regional plans. Comment did not necessitate change to the Final EIS.

PH1-E3

I can't speak to specific issues, but it would be important for you to get those comments into the record. So that it's documented and can be taken down. [See Chapter 2, Section 2.3.1] Comment did not necessitate change to the Final EIS.

Response to PH1-F, Ron Roman

PH1-F1

We're going to be bidding the first 15 miles around the Yuba City area; Shanghai Bend up to Live Oak, this year in March. So we plan to go out to bid on March 18th, open bids on April 19th, and award a contract this summer for that project. So that project will take two years to construct—2013 and 2014.

The next project we're going to go out to bid early 2014 and that'll be for this area up north all the way up to Thermalito. So that will be bid in early 2014, award contracts and get into construction in spring/summer of 2014 and build that in 2014 and 2015.

At the same time in 2014 probably towards the latter part of 2014, we'll issue another set of bid documents for what we call the gaps contracts. Filling in areas where Mike talked about, penetrations, railroad crossings and bridges, that'll be a special contract. So they'll be ongoing work throughout 2013, 2014 and 2015. [See Chapter 2, Section 2.2.3] Comment did not necessitate change to the Final EIS.

Response to PH1-G, Eugene Mason, Jr.

PH1-G1

There was a study done—original groundwater study done to see what existing conditions are and what the effect would be of building cut off walls over most of the 41 miles of levee all the way through there. And you're right, a lot of the levees, a lot of the slurry walls go about 40 to 60 feet deep. There are a few areas where we have to go deeper. What's recognized is we need to get through the sand and gravel. So when they looked at the original effects, they found they were negligent. They were looking at general groundwater trends ["trends"?] in the basin end to go north to south, down by the southern bypass, and actually some of the cut off falls in the south were slightly raised groundwater levels.

But what I think you're describing is one of the wells, there also could be some very localized effects near the levee itself. A lot of the wells go deeper from what we've seen. If there were a shallow well very close to the levee, that would be something we'd want to take a look at. But from a regional standpoint, the shallow wells overall groundwater region in the basin itself. It's a document that was done in support of the environmental study. [See Chapter 2, Section 2.5.7.3; Chapter 3.2, Section 3.2.2.2: Groundwater Quantity and Quality] Comment did not necessitate change to the Final EIS.

PH1-G2

So was there any study to look at the minimum amount necessary of levee improvements to protect that to achieve that 200-year urban area project and then no more, essentially? Because I can't imagine that you need 41 miles to protect Yuba City, right?

This has actually been looked at in the USACE feasibility study in a separate effort and the area plan that's referenced in the environmental document. So obviously there is public agency, there is an interest—well, there's a charge to look at the most cost-effective solution for whatever objective is being achieved. And so for 200 level flood protection in two separate efforts, both in state area plan before we got money from the state, or agreement to get money from the state, the state said, "Well, show us that you're doing the most cost effective—providing the most cost-effective solution. "Gold agencies and the federal effort ask the same question. "What are the goals and how can you achieve this in the most cost-effective means?" And that often means minimal fix. So a variety of alternatives were looked at including both separate efforts, and they were very separate. Including ring levees around Yuba City, wing levees that were very short, just north and south of Yuba City. Little ring levees around Biggs and Gridley and portions of Live Oak. Just fixing short reaches of the Feather River to protect the most number of people. Unfortunately, there's short regions, like in the latest study, there were 32,000 people that were still at risk.

Berms were looked at as a least cost alternative. Unfortunately the effects on and particular in an environment like this it is very expensive and has huge impacts by taking so much land. The very controversial Cherokee Bypass was looked at as an alternative. We were taking Cherokee Canal—probably read about this in the newspaper—widening it by many thousands of feet and diverting water off the Feather River and the Butte Basin. And that was looked at and of course that was ridiculously expensive.

So we didn't just come up with a solution because it was easy. It just happens to be that in general it applies to a lot of structure fixing stuff in place and minimizing the effects, effective right-of-way take, just generally is the more cost effective solution.

We also looked at a number of setback plan levees. And we were required to look at them in the state study and federal study. So there were setbacks that were evaluated for the north part of the basin and in area of widening the hydraulic prism in this region and also south of Yuba City. It was very expensive. And, again, that's how we arrived at this levee repair scene of which essentially 85% of the work— [See Chapter 2, Section 2.7; Chapter 3, Section 3.1.2; Section 3.1.2.2] Comment did not necessitate change to the Final EIS.

Response to PH1-H1, Jeff Fredericks

PH1-H1

As part of elevation process the USACE looks how you're going to alter that federal levee. And the least amount of work you need to do, the better off you are to get your permits through the USACE and inter-USACE approval. So for us to alter the levee by lowering it there would have to be that type of thing. If we're building it back to its existing gentry, and we're just strengthening the place, it's a much more benign type of project. We're not making a lot of changes to the federal project. So that's why. It was an easier way to get ourselves through that review in approval process. [See Chapter 1, Sections 1.4, 1.5] Comment did not necessitate change to the Final EIS.

Response to PH1-H2, Darlene Fredericks

PH1-H2

It's the easiest way from a permitting standpoint, but from a construction standpoint, it's obviously a little more work. But at the end of the day, the community gets the protection it needs. So we're not looking to cut corners as part of this process.

There's also one of the design goals is to keep the same level of protection. And even though these levees don't perform the way they should have to the top of the levee, is to ensure that they're not producing protection—they're not reducing level of protection.

What's going to happen here in 10, 20 years is somebody else is going to do another hydrology study over Oroville Dam. And it may get re-operated. Global warming, believe it or not, all those engineers are going to be changing hydrology and adjusting suffers. Hydrology is going to change, and there's going to be some study that's going to change when the water service elevation is and we're designing two today. So it's in our interest not to reduce the height of any of these levees. And in anticipation, the hydrology is going to change and probably go up. Generally every time somebody does a hydrology study it generally goes up a little bit. So in order to make sure this is a no-regress project, we're keeping everything the same. We're not adding anything. We're not taking anything

away. Everybody will get the same level of protection they had, and the least level of protection they had will be prism and not dropping it. And when that study comes through again in ten years or whenever when water comes up, it doesn't really cost us anything to restore anything in place or restore the original prism. And it does make the living easier, but the primary reason is to make sure it's a no-regress project. [See Chapter 1, Section 1.4] Comment did not necessitate change to the Final EIS.

Response to PH1-I, Sandra Waller

PH1-I1

The existing pipelines will be adjusted to conform to current design standards. So if they don't conform, the project is going to re align those pipelines. If the pipelines are not being utilized anymore, we'll remove the pipeline. We're working with all of the owners of those pipelines to relocate and readjust them to conform to current standards. [See Chapter 2, Section 2.3.2 and Table 2-5] Comment did not necessitate change to the Final EIS.

PH1-I2

We would have to temporarily relocate them, keep them—the irrigation line—they would have to be kept in service in some manner. And we would do temporary facilities. And then the permanent facility would be adjusted to standard. They'll be dealt with as part of a project. It depends on what the language of the permits say. If they're permitted, and depending on language of what the permits say, it will depend on who pays for the rehabilitation. But we researched all the facilities that we know about. We pulled all the permits and we have the language, so maybe I can get your information and we can give you that information about your facility. [See Chapter 2, Section 2.3.2 and Table 2-5] Comment did not necessitate change to the Final EIS.

PH1-I3

Then most likely the project would pay for those. Comment did not necessitate change to the Final EIS.

Response to PH1-J, Justin Kelly

PH1-J1

We're focusing in the Yuba City, Live Oak area currently and moving north. And for the project area plans we talked about earlier, we would expect to make all those in the spring, pay all that, and then project D, which is Gridley area and Biggs, we would begin that process. And that's going to extend into the summer. So we're working through getting those as we move forward. Comment did not necessitate change to the Final EIS.

PH1-J2

So what we would do is it's a long process. We would go in the field and show you how the project needs to be constructed and how we could operate the project. The project is built, and they know we raise property and we negotiate with you. And on what is required in the operation of the project. Comment did not necessitate change to the Final EIS.

PH1-J3

No, but I have that description. [See Chapter 2, Section 2.2.3, Table 2-4] Comment did not necessitate change to the Final EIS.

Response to PH1-K, Jeff Hughes

PH1-K1

At that location there's a big slug of seven—in the river hydraulic gets back times. It's hydraulic. So we've looked at that through our consul, and the thing about just simply dredging all of that material out of the river is that doesn't change what we have to do for the levees. We're not going to be able to just take all that material out and the water elevation drops. It's a little more complicated than that. The water service elevation is going to come up to the top, and what happens downstream of that location, the other issue with removing that kind of sediment is so a big slug of hydraulic mining that's coming down from the system, and what's happened in past events, you get a high water event. And they dredge that part of the system, and it goes up, and you're left with the same elevation. You need to mediate the levees. So the problem is engineers at those lower locations, you still have to fix the levee to withstand certain water surface elevation regardless of what happens in the channel.

There's another group that's called Lower Feather River Corridor Management Program, and they're looking at that. At what you're describing, removing dredging material, but as far as this project is concerned, we've looked at that and it doesn't make any difference with respect to geotechnical issues. You've still got to fix the levees. The water is still going to come up on the levee, and you still have to provide an awful lot of strength to keep the water on the right side of the levee.

The cross section of the levee, it's showing a very deep part of the river here. But with this phenomenon under - seepage through here, a lot of time main channel is further away from levee, and sands and gravel and underneath. But sometimes when you're dredging, what you're referring to is you're taking some of that material away that the water pressure has to pass through. So you're actually opening it up more to come up the levee. Now, some of the dredging is going to be further away from the levee. But in areas, if you start moving some of the clay blanket and exposing more gravels, it's going to go under more velocity, more pressure coming up the levee. Comment did not necessitate change to the Final EIS.

Response to PH1-L, Unidentified Male

PH1-L1

Thank you. We'll look into that. To clarify, SBFCA's web site (www.sutterbutteflood.org) had posted the scoping and public hearing materials with the relevant contact information for commenting on the Draft EIS/EIR although no mechanism was established to comment directly from the project web site. Comment did not necessitate change to the Final EIS.

Public Hearing 2, January 16, 2013, 3:00 p.m.

**Public Hearing
PH2, 3:00pm**

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Feather River West Levee Project
Public Meeting
Wednesday, January 16th, 2013
Yuba City Veterans Memorial Community Building
1425 Veterans Memorial Circle
Yuba City, California
3:00 p.m.

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Reported By: Jillian M. Bassett, CSR No. 13619

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PRESENTATION

Good evening, everyone. Thank you for coming this evening. It's been some time since we had our last presentation, so we'll go ahead and get started.

So this is one of three public meetings that is being done for the Feather River West Levee Project that is specific to the Environmental Documentation Process. And that is the National Environmental Policy Act and California Environmental Policy Act process.

There is an environmental impact statement and environmental impact report which are done as a joint document under civil cover that was published at the end of December and is out for review period right now. And that's what we are precisely here to do this afternoon is to explain the contents of that document in terms of project goals and objectives, what the project alternatives are, and the effects of those alternatives and how the public is invited. And we desire to have the feedback into that process and have the most complete and accurate picture that we can to help the Sutter Butte Flood Control Agency in ultimately making a decision to adopt a project, and all of the other state and federal agencies who also have some authority or permission for the project.

1 So we have about close to a half-hour
2 presentation. And then what we're going to do is take
3 questions and answers and comments as a group. However,
4 if the questions become very specific, then what we will
5 probably do is save those questions for a more one-on-one
6 conversation so that we can look at things on more of an
7 individual basis that way and provide a more tailored
8 response.

9 So with that, what I'll do is introduce myself
10 and the other members of the team who are there to help
11 the conversation this afternoon.

12 So I am Chris Elliott, I am from ICF
13 International. We are a consult firm. My office is in
14 Sacramento. We also have another office here in the
15 valley in Redding. And we are assisting Sutter Butte
16 Flood Control Agency and U.S. Army Corps of Engineers in
17 preparing the environmental document.

18 Other members of the team, in the back to my
19 right is Mike Inamine. And he is the Executive Director
20 of Sutter Butte Flood Control Agency.

21 And in the back to my left is Michael Bessette.
22 And Michael is Director of Engineering of the Sutter Butte
23 Flood Control Agency. And they are the two full-time,
24 permanent, professional staff of the Flood Control Agency.

25 So in addition, over here to my right we have

1 Barry O'regan. And Barry is overseeing the environmental
2 process as well as the real estate process that's
3 associated with the project.

4 Standing next to Barry is Kim Floyd. Many of you
5 probably know Kim. Kim was instrumental in the outreach
6 efforts that were associated with establishing the
7 Assessment District. It's those assessment dollars that
8 are in large part paying for the improvements to the
9 levees that we're going to talk about today.

10 And let's continue down to the back with
11 Michelle Osborn who helped you sign in. And please, if
12 you did not sign in at the beginning of the meeting, it's
13 very important we have your name and address if you are
14 interested in staying on the mailing list and seeing
15 additional correspondence about this process.

16 And also in the back is Ingrid, who is assisting
17 overall this evening.

18 And then moving up here to the front of the room
19 is Jillian, who is our court reporter. And she is going
20 to be recording this meeting in its entirety. So all of
21 the comments and questions that are asked in our group
22 discussion, she'll be recording. They will be published
23 as part of the final environmental document. And also
24 Jillian is here if you do not wish to submit a written
25 public comment, then you can sit down privately with

1 Jillian and she can take your comments down. And there
2 will be a formal response therefore that is then provided
3 within that final document that is published.

4 So other folks who are here with us this evening,
5 and we talked about Sutter Butte Flood Control side of
6 things, but there's also the U.S. Army Corps of Engineers.
7 They are the federal lead on the National Environmental
8 Policy Act side of the document. And the Corps has a very
9 important role in terms of two permissions that must be
10 granted for the project to be constructed. And
11 specifically that's associated with Rivers and Harbors Act
12 and something called Section 408, which is ensuring
13 integrity of Sacramento Flood Control Project. Which the
14 levees along the Feather River are a part of. So there
15 needs to be permission from the Corps of Engineers to
16 allow modification. And also the Corps has authority
17 through the Clean Water Act and looking at what are known
18 as waters of the United States. And that those are not
19 adversely affected.

20 So representing the Corps we have Adam Riley who
21 is in the back there waving his hand. Adam is the Corp's
22 Project Manager for the Feather River West Levee Project.
23 And specifically has oversight of that 408 process.

24 Also with Adam from the Corps, we have
25 Laura Whitney who is seated right here who is the project

6

1 manager.

2 There is a companion study that is the
3 feasibility study for the Sutter Basin -- the Sutter Basin
4 Project. And many of you might be familiar with that as
5 well. In fact, in this room in June of 2011, we held
6 public scoping meetings which were joint meetings
7 discussing both the Feather River West Levee Project and
8 Sutter Basin Feasibility Study.

9 Here our focus is to take specific comments on
10 the Feather River West Levee Project. But if you do have
11 any questions or comments about the Sutter Basin
12 Feasibility Study, we have Laura and other members of her
13 team to talk about that if you do have questions.

14 Other members of that team include Matt Davis.
15 And Matt is the environmental lead for the feasibility
16 study. And we have Joe Griffin who is an archeologist
17 with the Corps of Engineers.

18 And next to him is Jeff Koschak. And Jeff is the
19 environmental lead for the Feather River West Levee
20 Project. So essentially Matt counterparts, one of the
21 them serving the feasibility study, the other serving the
22 Feather River West Levee Project. Both of them working in
23 close coordination because of the type association between
24 the resources, the planning area, etc., between those two
25 companion efforts.

7

1 So about the presentation --

2 MR. INAMINE: I wanted to make a few more
3 introductions of the board members.

4 MR. ELLIOTT: Please do, Mike.

5 MR. INAMINE: First of all I want to introduce
6 Jim Whiteaker, who is Sutter County Corps of Supervisors
7 President. Then I report to a board of 13 members of the
8 Sutter Butte Flood Control Agency, the Board of Directors
9 beginning with Jim Gallagher here in the front.
10 John Dukes, Stan Clayton, Francis Silva is around here.
11 And I think that was it.

12 MR. ELLIOTT: So we do have some materials here
13 that are aids to our conversation. Some of you may have
14 found out about this meeting through this mailer that came
15 out. We have additional copies of this here that provide
16 a basic overview of the activities that the Flood Control
17 Agency is engaged in right now, and specifically about the
18 environmental document. There is this agenda which is
19 part of the formal notice about the meeting. And very
20 importantly, this is a comment card.

21 So if you choose to submit written comments on
22 the document, which will be formally responded to and
23 included within the final environmental impact statement
24 and environmental impact report, this is one way to do
25 that. Another way to submit comments, again, is to speak

1 directly with Jillian, and she'll take your comments. And
2 they can also be submitted by e-mail. And we have
3 information that's in the copy -- we have hard copies of
4 power point presentation that we're going through towards
5 the back. The complete contact information for
6 Ingrid Norgaard and Jeff Koschak is listed there. Two
7 individuals you can submit comments to. And also on the
8 comment board, hand written in red there if you can see
9 it, that is an e-mail address you can send comments to.

10 So all those mechanisms are -- will get the
11 comments to the same place and they will be formally
12 responded to and published in the document.

13 So in terms of the presentation; four basic
14 parts. First, we're going to talk a little bit about the
15 project background, and then we're going to go into a
16 little bit more of the history and context of how we got
17 to this point in terms of state of the levees, and then
18 we'll discuss this project. We're going to take a closer
19 look at the project in particular in terms of what the
20 measures are that are proposed and how those measures are
21 formulated into different alternatives that are evaluated
22 in the environmental document. And then we'll talk lastly
23 about the environmental document itself.

24 So first, about the project background -- the
25 Sutter Butte Flood Control Agency, again, is the CEQA lead

9

1 agency and is the proponent of the project and the agency
2 that will both ultimately adopt the project to advance
3 toward construction.

4 Sutter Butte Flood Control Agency is what is
5 known as the joint powers authority. And that is
6 essentially where a number of different public agency
7 interests come together and work collaterally as a single
8 agency. So the number of agencies that comprise the
9 Sutter Butte Flood Control Agency are Levee Districts 1
10 and 9, as well as the counties of Butte and Sutter, as
11 well as the cities in the area; Yuba City, Gridley, Biggs
12 Live Oak. Those are the member agencies of the
13 Sutter Butte Flood Control Agency.

14 So the efforts that are understudy in the
15 document and what the agency has been engaged in are
16 funded by the Assessment District that the citizens of the
17 county passed. And so that's where the money comes from
18 for the study. And then ultimately will be put towards
19 construction through that Assessment District. So the
20 purpose of this project that Sutter Butte Flood Control
21 Agency has understudy at this time is to look at the
22 41 miles along the west bank of the Feather River from
23 Thermalito Afterbay upstream at the very north of the
24 project, 41 miles down to, not quite reaching the
25 confluence of the Sutter Bypass. So stopping about three

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1 or four miles short of that point.

2 So we'll talk a little bit more about the
3 specific things that need to be treated on that part of
4 the levee.

5 So the construction is target to begin 2013. The
6 project that is 41 miles long and cannot be built in a
7 single construction season. So it will last for the
8 successive years after that, probably a three or four year
9 project to build. And Sutter Butte Flood Control Agency,
10 again, is coordinating directly with the state of
11 California. State of California administers part of the
12 funds for the project through propositions 84 and 1E. The
13 voters of California passed those propositions, which
14 resulted in bonds that have provided for hundreds of
15 millions of dollars for the infrastructure improvements
16 like this project across the state that goes in
17 combination with the local maps provided by the Assessment
18 District.

19 The state of California also has a role through
20 the Central Valley Flood Protection Board. The Central
21 Valley Flood Protection Board has delegated authority of
22 the responsibility of the Sacramento River Flood Control
23 Project. And Sutter Butte Flood Control Agency will be
24 asking its permission of the Corps of Engineers to modify
25 the levees through the Central Valley Flood Protection

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1 Board.

2 So how did we get here? A little bit of the
3 history. So prior to the European Settlement of
4 Sacramento Valley that occurred after the Gold Rush from
5 1849-1850, what we saw is when we had a seasonal snow melt
6 coming down from the Sierra as well as rains in the
7 valley, winter, springtime, that contributes for the
8 Sacramento and Feather River frequently leaving the banks,
9 the Central Valley was mostly a mosaic of different land
10 cover types that were seasonally inundated. So there
11 could be frail wetlands, seasonal wetlands, upland areas,
12 grasslands, oak savanna.

13 What happened after settlement and during that
14 same time, one of the methods that was used to distract
15 the gold, which was highly efficient for being able to
16 loosen the gold from the rocks and soil that it was held
17 in was hydraulic mining. And what that did was it washed
18 away literally millions of cubic yards of material down
19 the Bear and the Feather and the American, and all of
20 those tributaries that flow into the Sacramento Valley.

21 One thing that that had very real effect on was
22 the lives of those who were living here in the valley.
23 Meaning that the rivers no longer had that same channel
24 capacity. And so the frequency with which they could
25 overtop their banks was exacerbated by the hydraulic

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1 mining area. So what we started to see was individual
2 landowners who would then construct levees on their
3 property either to protect the property, and then as
4 landowners band together to increase the levee system that
5 was using the hydraulic force of the water itself -- so
6 the river itself, to blast that sediment down to the Delta
7 and ultimately down to the San Francisco Bay.

8 Over time that levee system continued to be built
9 serving the purposes of flood management, navigation, as
10 well as providing for diversions for water supply.
11 Ultimately it's those individual private levees, which
12 were then studied by the federal government and
13 grandfathered into the Sacramento River Flood Control
14 Project in the early 1900s.

15 So what's happened over the last century, as we
16 too frequently have reminders of, is that we have a very
17 fragile flood management system. Those levees that were
18 built by individual landowners, they were typically made
19 of whatever materials were most readily handed at the
20 time. So that could have been dredged materials directly
21 from the river; it could have been scraping material from
22 the adjacent farmlands. But sometimes that material
23 wasn't always the standard to which you would want your
24 levees to be built. A lot of alluvial soils, sandy,
25 coarse materials that aren't very cohesive and do not meet

1 the specifications of what we need today as acceptable
2 flood material and providing flood management that we
3 desire.

4 1955 was a stark reminder of this. More than
5 38 people were killed from a break at Shanghai Bend.
6 After that the state of California constructed the dam of
7 the reservoir at Oroville, which provided some flood
8 continuation and some flood management on the Feather
9 System. And then on, later than that, New Bullards Bar
10 was created providing additional storage, and was another
11 opportunity for flood management. But even despite
12 construction in those levees and building of that upstream
13 storage to continue those peak flows, floods still occur
14 and is part of the valley, unfortunately.

15 1986, 1987 were both years that saw tragic events
16 in terms of tens of thousands of acres that were flooded,
17 businesses that were damaged, lives that were lost. And
18 it's precisely those circumstances that we are hoping to
19 avoid again in the future by way of improving the levees
20 and addressing the deficiencies that are of them.

21 So there are several studies that have happened
22 in terms of the different engineering that is looked at to
23 understand precisely what's going on in the system from a
24 hydrology and hydraulic perspective. The longer the
25 period of record is that we have, rain data and snow melt

1 data, the better understanding we have of what the peaks
2 are. And even though the weather events and climate
3 that's happened in the past, there's no certainty that's
4 going to be what the future is.

5 Further, from a geotechnical perspective, aside
6 from how the water comes down and how fast it's moving and
7 how high it is, we need to understand what's going on
8 inside the levees and what is underlying in their
9 foundations. So in terms of what are the materials that
10 are there and knowing, do we have material that can
11 withstand through-seepage and under-seepage? And I have a
12 diagram. In a moment we can get to that to talk a little
13 bit more about those things that typically plague those
14 levees.

15 So once again, Butte and Sutter County property
16 owners came together to pass the Assessment District
17 in 2010. That Assessment District is what funds this
18 project. And there's also a companion study that is going
19 on at the federal level. And that is being led by Corps
20 of Engineers, State of California, Sutter Butte Flood
21 Control Agencies, the nonfederal sponsors. And that's
22 that Sutter Basin Feasibility Study to determine the
23 federal interest in the project.

24 So that study is well underway. And additional
25 documentation is going to be coming out to the public in

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1 2013. But even if a project were to be agreed upon, it
2 would still require authorization by congress at the
3 federal level. And even if it were to be authorized by
4 congress, there would have to be a separate appropriation
5 to allow that to happen, and for projects to be
6 constructed under that feasibility study. So that's
7 exactly why the Sutter Butte Flood Control Agency and the
8 state of California are choosing to act now in advance of
9 determining that ultimate federal project. Although the
10 two planning efforts are going hand in hand, so that any
11 activities undertaken by the state of California and
12 Sutter Butte Flood Control Agency are essentially
13 no-regress projects. And that these projects will be
14 consistent with and compatible with whatever the
15 determination might be out in the federal study.

16 So let's take a little bit closer look at the
17 project itself. Once again, it's looking at the 41 miles
18 from Thermalito Afterbay down to a little bit upstream of
19 the Sutter Bypass confluence, and providing better flood
20 risk management for those communities.

21 This is a map in green. What we see is the study
22 area that the Corps of Engineers is looking at under the
23 feasibility study. There's this red-dashed line, and that
24 is the west levee of the Feather River that is
25 specifically subject of this project. And you can see

16

1 that it starts all the way at Thermalito up to the
2 70 shield, extending down past Biggs, Gridley, Live Oak,
3 Yuba City, and ultimately ending right here just a little
4 bit north of the confluence, the Sutter Bypass of the
5 Feather River. So that's our study area.

6 So the primary deficiencies are through-seepage
7 and under-seepage. And the typical treatments that are
8 used to address these deficiencies are those sayings that
9 we have seen on many of the river systems. They're
10 improvement that went underway through the Central Valley.
11 Specifically slurry cut-off walls are one mechanism that
12 can be employed where the material that is at the core of
13 the levee prism and underneath the levee foundation is
14 taken out or reworked and replaced the material that has
15 less detachability. And what that does is it prevents
16 that seepage from happening at the same velocity through
17 the levee, under the levee foundation.

18 There are other areas where a seepage berm might
19 be more effective. And that is, rather than changing the
20 material that is within the levee or under the foundation,
21 is placing additional slurry material on the backside or
22 the landward side of the levee that prevents boils from
23 popping up on the land side. This diagram gives us a
24 little better picture of what happens.

25 So during high water events, water weighs a lot,

1 water has a lot of pressure behind it. That hydrostatic
2 pressure that is in the river channel, the force of the
3 water and volume of water that's in the river is impetuous
4 flow. And that's what's causing the water surface
5 elevation to rise. Water wants to go somewhere. It wants
6 to move. It wants to find the path of least resistance.
7 Unfortunately, sometimes that path of least resistance,
8 instead of flowing downward through the channel and
9 behaving within the levees like we would like it to, the
10 water starts to move laterally. It wants to go somewhere.

11 And so when it moves through the levee prism
12 itself, that phenomenon is known as through-seepage. When
13 the material within the levee is simply not strong enough
14 to keep the river within its course.

15 Other times that path of least resistance is
16 underneath the foundation of the levee. And unfortunately
17 in this region that's exactly what we've seen in the flood
18 events of '86 and '97. In through-seepage, if the water
19 starts to reach a certain velocity, it starts to take the
20 soil material away with it and process sand boils. And
21 when it starts to carry that soil, it essentially has a
22 snowball effect. And it moves faster and faster and
23 carries more of that soil with it, and the levee can
24 simply collapse right upon its own foundation.

25 Or with through-seepage, once the water starts to

1 blow out the backside of the levee, it starts to take that
2 levee material away with it. And then the levee is just
3 simply eroding off of its land side face. Also while it's
4 trying to withstand the erosion of forces that are
5 happening on its water side face at the same time.

6 Those are the primary deficiencies and the
7 primary fixes that are looked at under the project.

8 So there are three alternatives that are
9 described in the document as well as a no-action or
10 no-project alternative.

11 Those three alternatives are -- the first one is
12 looking through the lens of if we were to try to stay
13 within the existing levee footprint or within the existing
14 levee right of way, can we devise a project that would
15 meet all of the objectives and current levee design
16 criteria at the federal and state levels?

17 So that's Alternative 1 in the document. If we
18 put on the blinders of "let's stay within the current
19 footprint of levee."

20 Alternative 2 removes those blinders. It is
21 looking at those measures that if you were to not be
22 constrained by staying within the current footprint, what
23 might that project look like and how might that project
24 meet the objectives of 200-year protection as mandated by
25 the state of California, and a 100-year of protection by

1 the non-urbanized areas.

2 That's Alternative 2; outside of the footprint.

3 Alternative 3 is blending those two alternatives
4 together. Looking on a reach-by-reach basis along the
5 river. If we were to take the best or most appropriate
6 measure based on a number of factors, whether it was
7 primarily, how well is this measure or this fix addressing
8 the problems that are evident at that particular point on
9 the landscaping? Looking at real estate, looking at
10 costs, looking at environmental considerations.

11 So Alternative 3 is a blend of those first two
12 alternatives. And Alternative 3, the way it looks now, is
13 it's undergoing design at 90-percent level. It is about
14 80 to 85 percent slurry cut off walls with the balance
15 being seepage berms. And that alternative incidentally is
16 also identified in the environmental document as the
17 applicant-preferred alternative. Meaning, from a CEQA
18 perspective, California Environmental Quality Act
19 perspective, that is the project that, based on available
20 data at this point, that the Sutter Butte Flood Control
21 Agency is considering the most appropriate alternative
22 that has the best merits for being the project objectives.

23 But, again, that's exactly what we're here for is
24 to solicit your feed back and your comments on the
25 affected environment. And when we say environment, we

20

1 don't mean the bugs and bunnies, but also the human
2 environment like landowners. How does the project affect
3 agriculture? How does the project affect economics? So
4 all of those topics are within the scope of the
5 environmental document.

6 So a little bit more about the project. Right
7 now the estimates are targeting a 300-million dollar
8 project. About 75, 76 percent of that is slated to be
9 paid for by the state of California, again, through those
10 bonds that were passed. And then the remaining share
11 would be paid by the members within the Assessment
12 District. And that Assessment District lasts over
13 33 years.

14 So I started to get into the environmental
15 process a little bit. And let's talk about it more in
16 detail. Remember there are two primary environmental laws
17 that the document -- that the project has to be compliant
18 with. The National Environmental Policy Act, or
19 California Environmental Quality Act, what the U.S. Army
20 Corps of Engineers and Sutter Butte Flood Control Agency
21 have elected to do for this project is to look at each of
22 their responsibilities in an efficient way and studied
23 under a single cover and single document. And there's a
24 copy of that document in the back, and also a copy of that
25 document back there. So there's not a separate NEPA

21

1 document or separate CEQA document. Both of those
2 environmental laws or compliance of those laws are being
3 evaluated by a single cover cooperatively between the
4 Corps of Engineers and Sutter Butte Flood Control Agency.

5 UNIDENTIFIED FEMALE FROM AUDIENCE: Does one hold
6 precedence over the other?

7 MR. ELLIOTT: Does one hold precedence over the
8 other? No, not necessarily. We can talk more
9 specifically by what you might mean by that. But no, they
10 are looked at in combination. And the agencies have
11 cooperatively agreed on significant criteria and the
12 findings of significance within the document through
13 mitigation of measures, which will be ultimately adopted
14 as part of the project, and have come to agreement on the
15 effected environment and the methods through which the
16 analysis will be conducted. But one does not hold
17 precedence over the other. They each have specific needs
18 which bear meaning under CEQA and NEPA for those
19 perspective agencies.

20 I think that's probably covering everything that
21 was intended by the slide. And that's just what we were
22 talking about is the joint document, and I covered all of
23 that.

24 Specifically, a little bit more about the 408
25 process. I talked about that in the beginning. But it's

22

1 something that simply cannot be overlooked. And it's a
2 very strong determining factor in how the project is going
3 to be planned. Because what we would not want a situation
4 to be is that one modification to the levee system in one
5 discrete area to end up having adverse effects on another
6 part of the system. We would not want to exacerbate or
7 create conditions that were worse upstream, downstream or
8 adjacent.

9 And that's one of the primary functions of what
10 the Section 408 permission is for. It's to ensure the
11 integrity of the system, and that is it is functioning as
12 it was intended. Meaning it is functioning as a whole
13 entire system. So we need to make sure levee function is
14 not being impaired in the federal interest, and the
15 project is being maintained and that the project is not
16 injurious to the public.

17 And there are a number of factors that are looked
18 at in determining 408 permission. Such as what are the
19 type of modifications; what is the nature of the fix that
20 is being proposed; and the different materials that are
21 being proposing, and the methods that would be employed.
22 So Sutter Butte Flood Control Agency is working very
23 cooperatively and collaboratively with the Corps and state
24 of California in the planning, designing. And that would
25 continue through to construction and operations and

23

1 makings of the project.

2 So why are we here today and why hold this public
3 meeting? Well, one thing we're here for is to simply
4 update you on where we are in the process. Many of you
5 were at that scoping meeting back in June of 2011. So we
6 are farther down the road in terms of project planning,
7 its design, how the alternatives have been crafted, and we
8 have an environmental analysis in the environmental
9 document that is ready for your review.

10 It's also just an opportunity for you to talk to
11 the various members of the project team, whether it be
12 from Flood Control Agency side as well as the Corps of
13 Engineers.

14 In fact, I think I neglected to introduce one of
15 our team engineers, and that is Chris Kirvanec from HDR.

16 And, Chris, I apologize if I missed you in the
17 introduction.

18 But Chris is here as well as others to go over
19 your questions. And also simply we're here to comply with
20 the NEPA and CEQA requirements.

21 So what the public scoping process highlighted,
22 whether it was based on direct public feed back or other
23 agencies who might have some interest in the project, the
24 state of California has a number of different departments
25 which have in their public trust certain resources whether

24

1 it's the Department of Fish and Wildlife or at the federal
2 level the U.S. Fish and Wildlife Service, National Marine
3 Fishery Service, etc. Each of them have their own legal
4 responsibility associated with the project.

5 So the scoping yielded some concerns about those
6 resources that would need special attention within the
7 environmental document. And some of those include
8 construction-related effects. Those things that would
9 only last during the period under which the project was
10 being built. Such as affects on air quality from vehicle
11 omissions or generation of dust, or from noise that would
12 be generated by the project, or traffic and transportation
13 that might be affected by the project. Such as road
14 closures or additional truck trips that would be generated
15 from the levee material that needs to be brought in. Or
16 construction workers that will be coming to the site.

17 So there are those kinds of temporary affects.
18 And the document also looks at property acquisition and
19 what the ultimate real estate needs might be for the
20 project. It looks at river access for recreation, and it
21 looks at vegetation removal. And the Corps has a levee
22 vegetation policy that has some controversy associated
23 with it.

24 So the document evaluates under both the
25 no-action condition as well as different project

25

1 alternatives, what the ultimate compliance might be with
2 the Corps' levee vegetation policy relative to this
3 project.

4 So public comment period extends up until
5 February 13th. And there are a number of ways that we
6 invite your comments. Those comments, again, will appear
7 in the EIS/EIR with full responses. And you can comment
8 through e-mail. The handwritten address there in red is
9 the way to do that through e-mail. It can also be done
10 through fax, plain old snail mail using the comment cards
11 here today, or comments you might choose to give to
12 Jillian.

13 And these are the addresses that you could send
14 hardcopy snail mail comments to Jeff Koschak with U.S.
15 Army Corps of Engineers and with ICF on behalf of Sutter
16 Butte Flood Control Agency. And I'll leave it on that
17 slide.

18 I want to make sure there's nothing else to cover
19 here other than thanking you for your attendance.

20 So what we'd like to do now is we recognize many
21 of the questions you might have or comments you might have
22 about the project, they might not be unique to you. And
23 your neighbor might have precisely the same questions or
24 comments. So we think it could be a great benefit in
25 having an open dialogue about that. So that's what we'll

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1 do over the next 45 minutes to an hour or so. Or could be
2 less, depending on what question or comments you have.

3 But if comments get to be too specific or we feel
4 it'll be more effective to be able to help answer your
5 question in a one-on-one setting, then we might defer it
6 that way.

7 But at this point we are here for your comments.
8 The way we'd like to do this is I will ask that you state
9 your name first. And if you wouldn't mind, if you can
10 stand. We want to make sure that Jillian can hear you.
11 The acoustics aren't too bad in this room, but our
12 microphone doesn't reach. So we'll ask you to speak
13 loudly so we can get your name for the record as well as
14 understanding what your comments or questions are.

15 And so I'll be assisted by the other members of
16 the project team. And we can have anyone who would like
17 to go first in terms of a question or comment about the
18 project.

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PH2-A1

PUBLIC COMMENTS

VINCE HAMILTON: Is there any consideration for dredging some of the overgrown vegetation at the river bottoms that slows the flow of the river?

MR. ELLIOTT: And the question is about consideration given to dredging the river.

MR. INAMINE: That's a good question. And as you know, this project that Chris has described is strictly a levee-rehabilitation project. And I think the issue you're getting to is the vegetation and the sediment in areas like the lower Feather River, if I'm reading into your question correctly.

And for those areas or for many areas in the Sacramento system, that response channel maintenance lies with the Department of Water Resources. And so we're working with the department for a couple of programs to address things like sediment and vegetation rule. Because, you know, it's difficult. And I'm sure you're familiar with the issues. It really doesn't affect what we're doing, which is a very focussed project on the levees. Because the simple -- to sort of cut to the chase, is that the issues associated with vegetation and sediment, these levees are an under-seepage problem. And even when you remove, take into account, things like

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1 sediment and vegetation, the levees still fall down.
2 Because even under the 100-year advantage and 200-year
3 span, the under-seepage radiance, that's a measure of how
4 levees perform due to under-seepage pressures, they're
5 still inadequate. So even if you were to clean up these
6 channels, you still have under-seepage issues with the
7 levees.

8 But you raise a good point. And that's an issue
9 that we are working with the Department of Water Resources
10 to resolve for the long-term operation maintenance.

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PH2-B1

1 UNIDENTIFIED WOMAN FROM AUDIENCE: What's your
2 current status of that discussion?

3 MR. INAMINE: Okay. So there's a couple of
4 things that are happening.

5 The question was, what's the current status of
6 that discussion.

7 Maybe to answer your question, let me back up a
8 little bit and sort of frame what we're doing.

9 This is, again, levee-rehabilitation project.
10 And it's set up to be a no-regress project. Whatever we
11 do here is not -- we've looked at all kinds of
12 alternatives. We've looked at dredging issues, we've
13 looked at other alternatives for the levees and setbacks.
14 We've looked at all manner of alternatives. We're
15 obligated to do that. And we've come up with the least
16 cost and most sufficient solutions.

17 Some of these more difficult issues, because of
18 the environment issues, the long-term hydrology issues
19 that are being investigated right now, they're going to
20 take some time to resolve. They're going to take years to
21 resolve. So there's two efforts right now that are
22 underway. First is lower Feather River Corridor
23 Management Program. And that's, I think, there's a couple
24 folks here involved in that program. That looks at ways
25 of incorporating the environment. There's a proposal to

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1 release sediment from the lower Feather River and to
2 incorporate and engage restoration. That's obviously --
3 that's a longer discussion.

4 That's what we're doing. But that's the planning
5 form that that specific issue is being looked at at the
6 lower Feather River.

7 The other who asked about the status of that
8 discussion, there's another important initiative that
9 you're going to be hearing about over the next several
10 months, and that's called the Central Valley Flood
11 Protection Plan. And the phase that we're involved in is
12 the Regional Flood Management Planning Program. I know
13 that's a mouthful. But basically you probably are all
14 familiar with Central Valley Flood Protection Plan that
15 was adopted by the state of California in June of this
16 year. That's sort of the other overarching mother of all
17 flood management plans for the Central Valley. But it's
18 just a framework. It's guidance for how the state used
19 flood management should be implemented over the next
20 several years.

21 What's happened since then is that the state has
22 given local agencies -- rather than have the state do it,
23 the state is providing 100 percent funding for local
24 agencies to prioritize projects. And things like channel
25 maintenance, operations and maintenance, that's one of

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1 those things that's on the plate for local activities to
2 resolve over time.

3 But I don't want to give anybody illusions that
4 it's going to take place very quickly. That's an issue
5 that's going to take some time. But you're going to be
6 hearing about that because the local agencies including
7 SBFCA, Yuba County Water Agency and Marysville Levee
8 Commission have banded together and formed agencies over
9 at both sides of the river.

10 And we'll be looking at these issues as well as
11 other local flood management issues that we can prioritize
12 them for the state for an eventual strategy to get that
13 done.

14 So I know that's a long-muted answer to your
15 question. But that's unfortunately the only answer.

16 MR. ELLIOTT: Just to talk a little bit more
17 about the dredging issue as I understand from the
18 Engineers, there was a period during the early part of the
19 flooding history where dredging actually was a very
20 effective and necessary maintenance of system. After that
21 hydraulic period, where all that sediment had artificially
22 raised the channel invert of the channel bottom of the
23 rivers, all that sediment needed to go somewhere. So one
24 method to do that was to drain it out. The other method
25 was through placement of the levees in certain parts of

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1 the system to use the force of the river itself to force
2 the sediments out.

3 However, what we see today, the river is
4 basically back to what its originally natural channel
5 invert can be. The elevation at the bottom of the river
6 was about what it was before.

7 One of the things I didn't mention going into the
8 flood management history was the fact that the levees that
9 we have along the Feather were created in a period that
10 was pre-Oroville. And the significance that that has is
11 that without that upstream storage, there was need for
12 taller levees. Now that we have that positional upstream
13 storage, channel capacity is really not one of the
14 limiting factors within the Feather system. But that
15 doesn't change the fact what we do have in place with
16 those levees. It's just, they're sandy, coarse materials
17 that just aren't up to the challenge of being able to hold
18 the force of the river back.

19 From looking at a hydraulic perspective as well,
20 when you lower the channel invert, that doesn't
21 necessarily lead to a corresponding prop in water service
22 elevation. And in fact, sometimes it can have the
23 opposite effect, because you're drowning water in more
24 quickly.

25 Maybe I'll turn it over to Chris, that another

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1 potential problem that dredging in and of itself could
2 contribute to it. It actually could exacerbate the
3 seepage condition if I understand it. Maybe I can go back
4 to that cross section.

5 If you can talk a little bit about that, Chris.

6 MR. KIRVANEK: As Chris was describing earlier,
7 the key issue we're challenged with here is water seeping
8 underneath this clay blanket that's shown here that the
9 levee sits on, charging up the sands and gravels
10 underneath and trying to pop through that blanket and
11 create boils. And sometimes when you dredge on the water
12 side of the levee, you're actually cutting out some of
13 that blanket and you're exposing that sand out even more.

14 So we don't see it too often, but there are cases
15 where you're actually making the conditions worse.
16 Because instead of having to pass through the plane,
17 you've exposed the right to all the pressures from the
18 river.

19 MR. ELLIOTT: Next question or comment?
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PH2-C1

1 AL SAWYER: Al Sawyer, Sutter County Public
2 Works.

3 It's a construction-related question.

4 Did we look at the impacts of borrow pits?

5 You're going to have seepage berms and you're going to
6 bring in a lot of material. Where is this material coming
7 from and how's it getting to the sites?

8 MR. KIRVANEK: That's a great question. And
9 backing up just from that, we've had a number of projects
10 where we've constructed levees. It becomes very
11 borrow-intense. And what we're going to do here is we're
12 going to degrade the existing levee about half its height
13 to build these slurry walls, and then reconstruct the
14 levee about to where it is. And we do need to bring in
15 the clay for the top. So as you see the water passing
16 through the levee, that slurry wall and the clay pore are
17 going to keep the water from going through.

18 That's the key borrow that we need is clay. A
19 lot of these levees were built out of dredging material as
20 we discussed, so water is going through them. But we need
21 to bring in clay for them. So in the first project we're
22 going to use something like 130,000 cubic yards of clay.
23 And we've identified various sources. They're not nailed
24 down yet. I think in the environmental document they're
25 about 25 miles of the project sites. But we're still in

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PH2-C2

1 negotiations with landowners, and we're still working
2 through the details of that.

3 I know that's not a specific answer, but it's
4 coming from within the basin generally that we were
5 looking at one side on the outside. But it will be
6 trucked and on road trucks over to the sites.

7 AL SAWYER: Specifically the haul road issue or
8 impact on them. When the Corps did the ring levee around
9 Marysville, they had a -- when the spec was being put
10 together they had a meeting of local agencies. I attended
11 that and I requested that a specific specification be put
12 in the construction documents that referred the haulers or
13 the contractors to Sutter County for specific haul-route
14 permits. So we got very specific there and made it part
15 of the contract to ensure that that didn't slip through
16 the cracks.

17 MR. KIRVANEK: That's a great point. And the
18 design team is working with the county more just recently
19 and going through as we're identifying what the likely
20 borrow sites are and the haul routes to get to the site,
21 we're going to work with the county to get the permits we
22 need in advance to do that. And that's something the
23 contractor himself will have to get. We'll put that in
24 part of the contract document.

25 And maybe we can talk more offline as well. But

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1 that's a good point. We'll make sure that's taken care
2 of.

3 MR. ELLIOTT: And to parallel that, in addition
4 to ensuring that construction spec, if you don't intend to
5 submit this as a formal comment, make sure we get your
6 contact info so it can be written in the environmental
7 document for the project and responded to that way.

8 So other questions or comments as a group? And
9 don't feel as though we have to speak as a group. I mean,
10 we are here. We have members of the team here and we have
11 a member -- I didn't point out these map books that we
12 have.

13 Michael, if you could hold one up there. This
14 has excerpt figures from the environmental document. So
15 we are prepared to talk to you each individually if you
16 would prefer that way.

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PH2-D1

1 RICK SMALL: Should the feds come in with funding
2 on the road, how does that affect our assessments?

3 MR. ELLIOTT: So the question was about should
4 the federal government come in with funding, how does that
5 affect the Assessment District?

6 MR. INAMINE: That's a great question. I'm going
7 to try to make it as understandable as possible. It's a
8 complicated answer. Sometimes I wake up in the middle of
9 the night thinking about that question.

10 It's a great opportunity for us to have a federal
11 project that's parallel to our project. So the whole
12 history behind this program, which is funded by Bar 1E is
13 that state locals do not want to wait for the federal
14 government to do a feasibility study and go the
15 authorization procreation way which it's typically been
16 the 20 years for a project. And that's generally what it
17 takes for a project to come in.

18 So what the state has done is they've advanced us
19 the money for a state local -- totally self-contained
20 state local project to build out the project that we need
21 to protect our citizens and our livelihoods. So that's
22 what we're doing. The state doesn't just say, "Here's 75
23 percent of the funding, now go do good work with it."
24 They tell us, "Here's the money to go do this project.
25 We're advancing you the money, but make sure you cooperate

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1 with the federal government and their study." So if the
2 federal government finds out what we're doing today, that
3 the state gets credit for that work and they can use that
4 credit to do other work throughout the basin. Hopefully
5 with some legislation throughout the valley.

6 So that's the deal. It's beneficial to us for
7 several reasons. We're really the first region
8 feasibility study that's so far along. And we have good
9 reason to believe -- and I'm looking at our partners in
10 the back with Corps of Engineers -- we have good reason to
11 believe that the feasibility study, that they're going to
12 find federal interest in the project. It looks very much
13 like ours. That's a good thing.

14 So it provides a couple of things. It provides
15 another opportunity to get work done. The no-regress
16 project, the state is going to get credit for the work
17 that we're doing. We tend to be cheaper and faster than
18 the federal government. We can argue about this better,
19 but we're certainly fast. And both agencies have been
20 cheaper and faster.

21 The other important aspect of that is that
22 sometimes the federal government can find federal interest
23 that includes more of the project they need to do.
24 Federal program also provides a great backup plan. In the
25 event that some unknown thing happens, sometimes something

1 catastrophic happens, and we run short of funding, the
2 government is there with their project that is a little
3 slower. But in this case it is a good thing they're
4 slower, they can come along and finish the project.

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PH2-E1

1 UNIDENTIFIED MALE FROM AUDIENCE: Is there any
2 fish and wildlife mitigation requirements? Or do we know
3 that yet? Are we going to have to come up with mitigation
4 of lands or something like that related to this project?
5 Well, if we haven't already, but what's the extent of that
6 and where are we looking to get this mitigation credit?

7 MR. ELLIOTT: So the question is to what degree
8 is it known what the Fish and Wildlife Mitigations might
9 need for the project.

10 So the answer is yes. We know that for any of
11 the three alternatives there would be effects on fish and
12 wildlife. Both in terms of species that are listed at the
13 state level, species that are listed at the federal level,
14 and non-listed species.

15 So when we look at the federal level, the
16 National Marine Fishery Service has under their purview
17 affects on salmon. And the Feather River is a very
18 important habitat to salmon species, whether it's chinook
19 or steelhead.

20 So at this point the project does propose some
21 removal of waterside vegetation within the direct
22 construction footprint of the project. That vegetation is
23 being evaluated for -- or that vegetation loss is being
24 evaluated for its affects on fish. Because primary
25 habitat, waterside trees can be very important for salmon

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1 during certain life cycles. When the river is higher,
2 when salmon are out migrating in the ocean, that's great
3 refuge and forest habitat for them to hang out in that
4 area.

5 So that's one species that we're looking at and
6 one habitat that needs to be mitigated for.

7 Another is the Fish and Wildlife Service has two
8 primary species in the area under his jurisdiction. The
9 giant garter snake as well as the elderberry long-horn
10 beetle. And the project does have some effects on those
11 species. For giant garter snake, they are primarily
12 temporary effects, only during construction. Where the
13 levee slopes or canals might be temporarily unavailable to
14 the snake.

15 In the case of elderberry long-horn beetle, its
16 host plant is the elderberry shrub. There are some
17 elderberry shrubs on the west levee of the Feather that
18 will be removed by the project. So they would have to be
19 replaced and additional habitat provided.

20 There are also some other -- that's it for the
21 listed species. And then there are just some of the
22 general conservation measures for avoidance and
23 minimization of potential affecting on other species such
24 as the work window, being the time of year the project
25 would be built, and some of the methods of construction

1 might be, at least in part, constrained by some of the
2 species that might be there and their habitat.

3 So what's being looked at primarily to provide
4 that habitat mitigation is additional planting within the
5 back area that was created by LD1 and Star Bend. There's
6 surplus area available, and that is the primary place
7 where the habitat can be provided.

8 So it's an area that's already within the flood
9 plan where it's been accounted for in terms of hydrology
10 and hydraulics that would be a reasonable and safe place
11 that additional habitat can be created. It doesn't
12 present a flood management benefit or other incumbrances
13 of additional properties.

14 That mitigation, which cannot be there, and at
15 this point we're still working up the math and how much we
16 go there versus what might be needed elsewhere. It's
17 going to be in very small increments if there's anything
18 that cannot be achieved within the existing Star Bend
19 setback. And that would likely be through purchase of
20 credits from commercial banks here locally.

21 Does that answer your question?
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PH2-F1

1 RYAN SHORE: My name is Ryan Shore and I farm in
2 Butte County. And I wanted to follow up on what the
3 gentleman from Public Works just talked about. And I had
4 a multipart question. I represent a group of other
5 farmers as well who are concerned that any type of --
6 well, first of all let me say that I don't want to hinder
7 your job. We know that you're going to have to have
8 bulldozers and excavators to fix the levee. But beyond
9 that, I think it's imperative to make sure that when we
10 mitigate for some of these problems, that that land does
11 not affect current farming operations, whether you've got
12 walnut orchards or prune orchards or rice fields, whatever
13 might be, at adjacent lands is that those new mitigation
14 areas are improved or increased mitigation areas don't
15 have a negative impact to neighboring and productive
16 lands. If that makes sense.

17 And beyond that, I think it's imperative -- and
18 you touched on it briefly -- I think that if, as I
19 understand, that any work that's done is not going to
20 create new problems for future maintenance on the levees.

21 Does that make sense?

22 So as I understand what you intend to do won't
23 create any new problems. So as we're repairing that
24 levee, we're not setting ourselves up for problems
25 cleaning and going forward. And I think that's imperative

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1 to maintain that.

2 So maybe you can touch on those couple of topics.
3 Because I think those are imperative to landowners and
4 farmers here in the area.

5 MR. ELLIOTT: That's well said. And your
6 comments are absolutely making sense.

7 One from the perspective of any additional
8 habitat that is created, it is important that there needs
9 to be recognition and planning for compatibility with
10 adjacent landowners. Whether that's residences or whether
11 it's farming. And when it's farming, whether that's rice
12 or whether it's orchards, whatever it happens to be, that
13 those future uses opposed by the project do not in any way
14 jeopardize the sustainability of those existing current
15 land uses. And that's exactly why additional mitigation
16 or habitat created at Star Bend, given that's the site
17 that's already been set aside for this purpose, rather
18 than looking at new lands that would be brought in as
19 habitat under the project, makes sense. And at this point
20 it looks like the math works out such as that would be the
21 case.

22 And then your second point right now --
23 maintenance.

24 The project, while it is not a direct intention
25 or an objective of this project, that it would bring the

1 entirety of this 41 miles of Feather River west levee in
2 the compliance with the Corps' levee vegetation policy.
3 If you're fairly familiar with the levee, you'll know it's
4 already pretty clean. It's not like where you might go
5 along certain areas in Sac or especially as you get down
6 to the lower part of Sacramento Valley in the Delta where
7 those levees are heavily noncompliant. The Feather,
8 that's where 99 percent of the vegetation is, is
9 without -- it is outside of the levee prism and is within
10 the flood plan.

11 That being said, there are areas where the levees
12 are not compliant. And that presents a challenge in terms
13 of how the state of California gets through the delegated
14 responsibility to the Levee District and Reclamation
15 District. And how the O&M is carried out in compliance
16 with the federal standards to ensure eligibility for
17 federal programs and federal assistance. And just keeping
18 the levees to meet the certain accreditation needs.

19 I know I'm coming about this in a roundabout way,
20 but where the project is touching the levees, it is
21 removing that vegetation that is noncompliant with the
22 direct footprint and is not replacing vegetation in that
23 spot. So the levees where they're touched by the project
24 will be left in a compliant state. But that is not to say
25 that all 41 miles will be compliant once the project is

1 complete. Because Sutter Butte Flood Control Agency is
2 working cooperatively with the state of California through
3 a multi-agency effort. The state level is working with
4 the Corps of Engineers to see the long-term solution where
5 there can be agreement on precisely that levee vegetation
6 management issue.

7 And I know that's only one component of O&M. But
8 yes, it is a definite design criteria and project
9 objective to look at measures that don't place a long term
10 O&M.

11 One thing you'll notice is that the project does
12 not rely on heavy use of relief wells. Which relief wells
13 are measured, which are very site-specific, very localized
14 effective measures in some circumstances. But it's also a
15 measure that you can't just walk away from. You need to
16 make sure those relief wells are functioning the way they
17 were intended and that the water is moving in safe
18 fashion.

19 Because the water has got to go somewhere. Just
20 need to make sure that's being done in controlled ways
21 that isn't going to result in a flood event. We're
22 looking at things as slurry cut-off walls and seepage
23 berms, which, while they still require O&M, and they still
24 require performance observation during flood events,
25 there's not something that's quite so active as there is

1 with something like a relief well.

2 So definitely held into consideration and being
3 taken in mind as well as the easements in the area that
4 are necessary to keep the levee functioning the way it
5 should be.

6 So does that touch up on your question?

7 RYAN SHORE: I think so.

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PH2-G1

1 JERRY ORR: Are you planning on removing any of
2 the relief wells that are in existence now?

3 MR. BESSETTE: That's a great question. In
4 reach 13 around Shanghai Bend there's a big relief well
5 system there. And with our project, we're actually going
6 to make that system, it's not going to be needed in the
7 future. We're going to construct the slurry wall and get
8 it at the depth where we're going to cut off that seepage
9 and convert those relief wells to observation wells. So
10 we'll keep them in place, but they won't be functioning as
11 they are now. And they won't be necessary for the system
12 to operate properly. So that will actually help reduce
13 them from all responsibilities for LD-1.

14 MR. ELLIOTT: Next question?

15 Okay. Well, we are here if you would like to
16 come up and see each of us individually. And we have
17 copies of these map books about what the project
18 footprints are.

19 But thank you again for coming and thank you for
20 your interest.

21 And if you have comments, please see Jillian or
22 you can use one of these comment cards.

23 (Whereupon the meeting adjourned at 4:19 p.m.)
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JILLIAN M. BASSETT
Certified Shorthand Reporter No. 13619

Response to PH2-A, Vince Hamilton

PH2-A1

This project is strictly a levee-rehabilitation project. And I think the issue you're getting to is the vegetation and the sediment in areas like the lower Feather River, if I'm reading into your question correctly. And for those areas or for many areas in the Sacramento system, that response channel maintenance lies with the California Department of Water Resources. And so we're working with the department for a couple of programs to address things like sediment and vegetation rule. Because, you know, it's difficult. And I'm sure you're familiar with the issues. It really doesn't affect what we're doing, which is a very focused project on the levees. Because the simple—to sort of cut to the chase, is that the issues associated with vegetation and sediment, these levees are an under-seepage problem. And even when you remove, take into account, things like sediment and vegetation, the levees still fall down. Because even under the 100-year advantage and 200-year span, the under-seepage radiance, that's a measure of how levees perform due to under - seepage pressures, they're still inadequate. So even if you were to clean up these channels, you still have under-seepage issues with the levees. That's an issue that we are working with DWR to resolve for the long-term operation maintenance. Comment did not necessitate change to the Final EIS.

Response to PH2-B, Unidentified Female

PH2-B1

This is, again, a levee-rehabilitation project. And it's set up to be a no-regress project. Whatever we do here is not—we've looked at all kinds of alternatives. We've looked at dredging issues; we've looked at other alternatives for the levees and setbacks. We've looked at all manner of alternatives. We're obligated to do that. And we've come up with the least cost and most sufficient solutions.

Some of these more difficult issues, because of the environment issues, the long-term hydrology issues that are being investigated right now, they're going to take some time to resolve. They're going to take years to resolve. So there's two efforts right now that are under way. First is lower Feather River Corridor Management Program. And that's, I think, there's a couple folks here involved in that program. That looks at ways of incorporating the environment. There's a proposal to release sediment from the lower Feather River and to incorporate and engage restoration. That's obviously a longer discussion. That's what we're doing. But that's the planning form that that specific issue is being looked at the lower Feather River.

The other who asked about the status of that discussion, there's another important initiative that you're going to be hearing about over the next several months, and that's called the Central Valley Flood Protection Plan. And the case that we're involved in is the Regional Flood Management Planning Program. I know that's a mouthful. But basically you probably are all familiar with Central Valley Flood Protection Plan that was adopted by the state of California in June of this year. That's sort of the other overarching mother of all flood management plans for the Central Valley. But it's just a frame work. It's guidance for how the state used flood management should be implemented over the next several years.

What's happened since then is that the state has given local agencies—rather than have the state do it, the state is providing 100% funding for local agencies to prioritize projects. And things like

channel maintenance, operations and maintenance, that's one of those things that's on the plate for local activities to resolve over time.

But I don't want to give anybody illusions that it's going to take place very quickly. That's an issue that's going to take some time. But you're going to be hearing about that because the local agencies including SBFCA, Yuba County Water Agency and Marysville Levee Commission have banded together and formed agencies over at both sides of the river. And we'll be looking at these issues as well as other local flood management issues that we can prioritize them for the state for an eventual strategy to get that done.

There was a period during the early part of the flooding history where dredging actually was a very effective and necessary maintenance of system. After that hydraulic period, where all that sediment had artificially raised the channel invert of the channel bottom of the rivers, all that sediment needed to go somewhere. So one method to do that was to drain it out. The other method was through placement of the levees in certain parts of the system to use the force of the river itself to force the sediments out. However, what we see today, the river is basically back to what its originally natural channel invert can be. The elevation at the bottom of the river was about what it was before.

One of the things I didn't mention going into the flood management history was the fact that the levees that we have along the Feather were created in a period that was pre- Oroville. And the significance that that has is that without that upstream storage, there was need for taller levees. Now that we have that positional upstream storage, channel capacity is really not one of the limiting factors within the Feather system. But that doesn't change the fact what we do have in place with those levees. It's just, they're sandy, coarse materials that just aren't up to the challenge of being able to hold the force of the river back.

From looking at a hydraulic perspective as well, when you lower the channel invert, that doesn't necessarily lead to a corresponding drop in water service elevation. And in fact, sometimes it can have the opposite effect, because you're drowning water in more quickly.

The key issue we're challenged with here is water seeping underneath this clay blanket that's shown here that the levee sits on, charging up the sands and gravels underneath and trying to pop through that blanket and create boils. And sometimes when you dredge on the waterside of the levee, you're actually cutting out some of that blanket and you're exposing that sand out even more.

So we don't see it too often, but there are cases where you're actually making the conditions worse. Because instead of having to pass through the plane, you've exposed the right to all the pressures from the river. Comment did not necessitate change to the Final EIS.

Response to PH2-C, Al Sawyer

PH2-C1

We've had a number of projects where we've constructed levees. It becomes very borrow- intense. And what we're going to do here is we're going to de grade the existing levee about half its height to build these slurry walls, and then reconstruct the levee about to where it is. And we do need to bring in the clay for the top. So as you see the water passing through the levee, that slurry wall and the clay pore are going to keep the water from going through. That's the key borrow that we need is clay. A lot of these levees were built out of dredging material as we discussed, so water is going

through them. But we need to bring in clay for them. So in the first project we're going to use something like 130,000 cubic yards of clay. And we've identified various sources. They're not nailed down yet. I think in the environmental document they're about 25 miles of the project sites. But we're still in negotiations with landowners, and we're still working through the details of that. It's coming from within the basin generally that we were looking at one side on the outside. But it will be trucked and on road trucks over to the sites. Comment did not necessitate change to the Final EIS.

PH2-C2

The design team is working with the county more just recently and going through as we're identifying what the likely borrow sites are and the haul routes to get to the site, we're going to work with the county to get the permits we need in advance to do that. And that's something the contractor himself will have to get. We'll put that in part of the contract document. Comment did not necessitate change to the Final EIS.

Response to PH2-D, Rick Small

PH2-D1

It's a great opportunity for us to have a federal project that's parallel to our project. So the whole history behind this program, which is funded by Bar 1E is that state locals do not want to wait for the federal government to do a feasibility study and go the authorization procreation way which it's typically been the 20 years for a project. And that's generally what it takes for a project to come in. So what the state has done is they've advanced us the money for totally self-contained state local project to build out the project that we need to protect our citizens and our livelihoods. So that's what we're doing. The state doesn't just say, "Here's 75% of the funding, now go do good work with it." They tell us, "Here's the money to go do this project. We're advancing you the money, but make sure you cooperate with the federal government and their study." So if the federal government finds out what we're doing today, that the state gets credit for that work and they can use that credit to do other work throughout the basin. Hopefully with some legislation throughout the valley. So that's the deal. It's beneficial to us for several reasons. We're really the first region feasibility study that's so far along. And we have good reason to believe—and I'm looking at our partners in the back with USACE—we have good reason to believe that the feasibility study, that they're going to find federal interest in the project. It looks very much like ours. That's a good thing. So it provides a couple of things. It provides another opportunity to get work done. The no-regress project, the state is going to get credit for the work that we're doing. We tend to be cheaper and faster than the federal government. We can argue about this better, but we're certainly fast. And both agencies have been cheaper and faster. The other important aspect of that is that sometimes the federal government can find federal interest that includes more of the project they need to do. Federal program also provides a great back up plan. In the event that some unknown thing happens, sometimes something catastrophic happens, and we run short of funding, the government is there with their project that is a little slower. But in this case it is a good thing they're slower, they can come a long and finish the project. Comment did not necessitate change to the Final EIS.

Response to PH2-E, Unidentified Male

PH2-E1

We know that for any of the three alternatives there would be effects on fish and wildlife. Both in terms of species that are listed at the state level, species that are listed at the Federal level, and non-listed species.

So when we look at the Federal level, the NMFS has under their purview effects on salmon. And the Feather River is a very important habitat to salmon species, whether it's Chinook or steelhead. So at this point the project does propose some removal of waterside vegetation within the direct construction foot print of the project. That vegetation is being evaluated for, or that vegetation loss is being evaluated for its effects on fish. Because primary habitat, water side trees can be very important for salmon during certain life cycles. When the river is higher, when salmon are out migrating in the ocean, that's great refuge and forest habitat for them to hang out in that area.

So that's one species that we're looking at and one habitat that needs to be mitigated for. Another is the USFWS has two primary species in the area under its jurisdiction, the giant garter snake, as well as the elderberry long-horn beetle. And the project does have some effects on those species. For giant garter snake, they are primarily temporary effects, only during construction where the levee slopes or canals might be temporarily unavailable to the snake.

In the case of elderberry long- horn beetle, its host plant is the elderberry shrub. There are some elderberry shrubs on the west levee of the Feather that will be removed by the project. So they would have to be replaced and additional habitat provided.

There are also some other—that's it for the listed species. And then there are just some of the general conservation measures for avoidance and minimization of potential affecting on other species such as the work window, being the time of year the project would be built, and some of the methods of construction might be, at least in part, constrained by some of the species that might be there and their habitat.

So what's being looked at primarily to provide that habitat mitigation is additional planting within the back area that was created by LD 1 and Star Bend. There's surplus area available, and that is the primary place where the habitat can be provided. So it's an area that's already within the flood plan where it's been accounted for in terms of hydrology and hydraulics that would be a reasonable and safe place that additional habitat can be created. It doesn't present a flood management benefit or other encumbrances of additional properties. That mitigation, which cannot be there, and at this point we're still working up the math and how much we go there versus what might be needed elsewhere. It's going to be in very small increments if there's anything that cannot be achieved within the existing Star Bend setback. And that would likely be through purchase of credits from commercial banks here locally. Comment did not necessitate change to the Final EIS.

Response to PH2-F, Ryan Shore

PH2-F1

It is important that there needs to be recognition and planning for compatibility with adjacent landowners, whether that's residences or whether it's farming. And when it's farming, whether that's rice or whether it's orchards, whatever it happens to be, that those future uses opposed by the

project do not in any way jeopardize the sustainability of those existing current land uses. And that's exactly why additional mitigation or habitat created at Star Bend, given that's the site that's already been set aside for this purpose, rather than looking at new lands that would be brought in as habitat under the project, makes sense. And at this point it looks like the math works out such as that would be the case.

And then your second point right now—maintenance. The project, while it is not a direct intention or an objective of this project, that it would bring the entirety of this 41 miles of Feather River west levee in the compliance with the USACE's levee vegetation policy. If you're fairly familiar with the levee, you'll know it's already pretty clean. It's not like where you might go a long certain areas in Sac or especially as you get down to the lower part of Sacramento Valley in the Delta where those levees are heavily noncompliant. The Feather, that's where 99% of the vegetation is, is without—it is outside of the levee prism and is within the flood plan .

That being said, there are areas where the levees are not compliant, and that presents a challenge in terms of how the state of California gets through the delegated responsibility to the Levee District and Reclamation District, and how the operations and maintenance (O&M) is carried out in compliance with the federal standards to ensure eligibility for federal programs and federal assistance, and just keeping the levees to meet the certain accreditation needs.

I know I'm coming about this in a roundabout way, but where the project is touching the levees, it is removing that vegetation that is non-compliant with the direct foot print and is not replacing vegetation in that spot. So the levees where they're touched by the project will be left in a compliant state. But that is not to say that all 41 miles will be compliant once the project is complete. Because Sutter Butte Flood Control Agency is working cooperatively with the state of California through a multi-agency effort. The state level is working with the USACE to see the long-term solution where there can be agreement on precisely that levee vegetation management issue.

And I know that's only one component of O&M. But yes, it is a definite design criteria and project objective to look at measures that don't place a long term O&M. One thing you'll notice is that the project does not rely on heavy use of relief wells. Which relief wells are measured, which are very site-specific, very localized effective measures in some circumstances. But it's also a measure that you can't just walk away from. You need to make sure those relief wells are functioning the way they were intended and that the water is moving in safe fashion, because the water has got to go somewhere. Just need to make sure that's being done in controlled ways that isn't going to result in a flood event.

We're looking at things as slurry cut-off walls and seepage berms, which, while they still require O&M, and they still require performance observation during flood events, there's not something that's quite so active as there is with something like a relief well. So definitely held into consideration and being taken in mind as well as the easements in the area that are necessary to keep the levee functioning the way it should be. Comment did not necessitate change to the Final EIS.

Response to PH2-G, Jerry Orr

PH2-G1

In reach 13 around Shanghai Bend there's a big relief well system there, and with our project, we're actually going to make that system, it's not going to be needed in the future. We're going to construct

the slurry wall and get it at the depth where we're going to cut off that seepage and convert those relief wells to observation wells. So we'll keep them in place, but they won't be functioning as they are now, and they won't be necessary for the system to operate properly. So that will actually help reduce them from all responsibilities for LD 1. Comment did not necessitate change to the Final EIS.

Public Hearing 2, January 16, 2013, 6:00 p.m.

**Public Hearing
PH2, 6:00pm**

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Feather River West Levee Project
Public Meeting
Wednesday, January 16th, 2013
Yuba City Veterans Memorial Community Building
1425 Veterans Memorial Circle
Yuba City, California
6:00 p.m.

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Reported By: Jillian M. Bassett, CSR No. 13619

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PRESENTATION

Good evening, and thank you for coming. And welcome to the Sutter Butte Flood Control Agency and U.S. Army Corps of Engineers meeting on the Feather River West Levee Project.

So I have about a 30-minute presentation that I'm going to be going through. And after that, we'll have general comments and questions and answers that we'll be taking as a group. Because we understand that many of you might have comments or questions that might be precise, or the same ones that interest your neighbor.

We also have other members of the team here this evening. So if the question is very specific or if you would prefer not to speak in front of the whole group, then we can talk one on one, individually.

So before we get too far into it I'll introduce who I am. My name is Chris Elliott and I'm with a consulting firm, ICF. My office is in Sacramento. And we also have an office in the valley in Redding. We have prepared the environmental document as a consultant to the Sutter Butte Flood Control Agency and working with U.S. Army Corps of Engineers.

So other members of the team we have is Mike Inamine. He is the Executive Director of the Sutter

1 Butte Flood Control Agency.

2 And Michael Bessette is Director of Engineering
3 of Sutter Butte Flood Control Agency. So they are Sutter
4 Butte Flood Control Agency's permanent, full-time staff
5 working to advance that project as well as the other
6 objectives that Sutter Butte Flood Control Agency has.

7 They are assisted by Chris Krivanec for the
8 Feather River West Levee Project.

9 Kim Floyd, many of you probably know, has been
10 working with the Flood Control Agency for a number of
11 years and specifically met many of you through the
12 Assessment District, which we passed back in 2010.

13 In the back of the room there you were probably
14 greeted by either Michelle or Ingrid. And they are with
15 ICF.

16 And up here in the front of the room is Jillian.
17 And Jillian is our court reporter. She is taking detailed
18 minutes of this meeting. And then is also available after
19 the meeting. If you would like to make comments to her
20 that would be officially on the record and included and
21 published in the final environmental impact statement and
22 environmental impact report with a detailed response, then
23 we invite you to talk to Jillian.

24 That's not the only way to get your comments into
25 the record. That's one of the mechanisms we have

1 available.

2 So we also have Barry O'Regan who is consultant
3 to Sutter Butte Flood Control Agency. So Barry is around
4 here somewhere.

5 And then assisting Barry, he oversees the
6 environmental part as well as the real estate. Two other
7 members of our real estate team are here this evening,
8 Debby and Rebecca, to help talk about real estate
9 acquisition issues if you have specific issues about that.

10 Then that represents the Sutter Butte Flood
11 Control Agency team. And also the U.S. Army Corps of
12 Engineers has representatives here as well. Specifically
13 Adam Riley standing there in the back. He is the Corps'
14 Project Manager. He's with the operation and navigation
15 section of Corps. And they have a special responsibility
16 or authority over the project. And that would include
17 River and Harbors Act Section 408 permission. And that is
18 where Sutter Butte Flood Control Agency is working with
19 the state of California through the Central Valley Flood
20 Protection Board has requested permission to modify the
21 levees and alter the levees for the flood improvements
22 that are the subject of the environmental document and are
23 being proposed by the Sutter Butte Agency.

24 We also have Matt Davis with us from the Corps of
25 Engineers. Matt has been coordinating with the

5

1 Feather River West Levee Project, working specifically on
2 the Sutter Basin Feasibility Study.

3 Back in June of 2011 in this very room we held
4 public scoping meetings that were joint scoping meetings
5 both for the Feather River West Levee Project and the
6 Sutter Basin. Tonight we're here to talk primarily about
7 the Feather River West Levee Project. That is the subject
8 of the environmental impact statement and environmental
9 impact report. But if you have questions about the
10 feasibility study, Matt can answer some of those.

11 We also have Joe who is an archeologist with the
12 U.S. Army Corps of Engineers. Certainly an important part
13 of the environment that the project may affect. So Joe is
14 here and has knowledge and expertise in those issues if
15 you have questions in that regard.

16 And we are also joined by one of the Sutter Butte
17 Flood Control Agency Board members, Bo Sheppard is here
18 this meeting.

19 Also with the Corps of Engineers, Laura Whitney
20 who is the Project Manager for the Sutter Butte
21 Feasibility Study.

22 So did I catch everybody who is part of the
23 project team?

24 Okay. So about the presentation. So it's broken
25 down into four general parts. First we're going to talk a

6

1 little bit about project background. And then I want to
2 go to a little bit more of the history and context about
3 why the project is important and why it's important to act
4 for flood-risk deduction in this area. And then we'll
5 look more specifically about the measures that are being
6 proposed and how those measures are crafted into
7 alternatives that are going through further design
8 development and are the subject of the environmental
9 document. And then lastly we'll look more specifically at
10 the environmental process itself.

11 So getting into the project background. So the
12 Sutter Butte Flood Control Agency is a joint powers
13 authority. And what that essentially means in the
14 California law is that there are several individual
15 entities who are choosing to work collaterally and
16 cooperatively as a single entity. So Levee Districts 1
17 and 9, as well as the counties of Sutter and Butte and the
18 cities of Yuba City, Live Oak, Gridley, and Biggs, are all
19 member of the agencies, Flood Control Agency, and working
20 towards advancing these levee improvements.

21 Sutter Butte Flood Control Agency is advancing
22 this project based on the funds that were passed through
23 the local Assessment District. And the purpose is to look
24 most specifically at the 41 miles of the Feather River and
25 the western levee of the river. And we have some

7

1 diagrams. I can show that a little bit more in detail.

2 So construction is slated to start in 2013. A
3 project that is 41 miles in its scope cannot be built in a
4 single construction season. So would likely progress
5 three years beyond that initial construction. And Sutter
6 Butte Flood Control Agency is working cooperatively with
7 the state of California through both the Department of
8 Water Resources and Central Valley Flood Protection Board
9 to advance the project.

10 Department of Water Resources' role is that they
11 administer the bond funds that were passed through state
12 propositions 84 and 1E, which is a major part of funding
13 for the project. And then Central Valley Flood Protection
14 Board has the responsibility for overseeing the operations
15 and maintenance activities of the Federal Flood Control
16 Project.

17 And so, again, one of the reasons we're here
18 tonight is to talk about what's in the environmental
19 document in terms of the alternatives and how they're
20 described, the environment that might potentially be
21 affected by the project. The environment, I use in a
22 broad sense, not just the ecology or the natural part, but
23 also deals with human environment and things that affect
24 us as well. Whether it's issues of land use, agriculture,
25 economics, etc. And so that draft environmental document

8

1 was released out on the street in December of 2012 and
2 comments are due in February. So they need to be wrapped
3 up into a final environmental document and then ultimately
4 provided to the hands of the decision makers.

5 Sutter Butte Flood Control Agency has to adopt
6 the project as well as the Corps of Engineers, and carry
7 out their responsibilities under the River and Harbors Act
8 as well as Clean Waters Act. And there are a number of
9 other states that hold some authority over the project,
10 and that this document provides the foundation for that
11 decision.

12 So how did we get here? Let's talk a little bit
13 about the history that contributes to the flood risk and
14 flood management situation that we're in.

15 So prior to European Settlement and what happened
16 after the discovery of gold in this region, the Feather
17 and Sacramento Rivers, with quite great frequency, would
18 overtop their banks, and would leave their primary
19 channel. So what we had on the valley floor was a mosaic
20 of seasonal wetlands, perennial wetlands, grasslands, oak
21 savanna, and other habitat-types like that that were
22 subject to the rivers leaving their primary course, which
23 is the valley floor.

24 What we saw happen after that time as we looked
25 for more efficient ways to extract the precious gold was a

1 particular method called hydraulic mining. And what
2 hydraulic mining did is it forced water through a cannon
3 that would blast the rock, it would blast Sierra Foothills
4 to separate the gold from the soiled material. Very
5 effective at doing that.

6 But one of the things that was a cost and a
7 result of that was that all that sediment had to go
8 somewhere. And millions of cubic yards in the foothills
9 choked the Bear, the Feather, the American, the Yuba, and
10 all those rivers that drained the Sierra Foothills. And
11 it caused the channels to rise. And what that contributed
12 to was that the rivers, which already were subject to
13 periodic inundation, could not even contain the water that
14 was there previously.

15 So that had many problems. Many problems
16 specifically in this area where the rivers were no longer
17 navigable, where farms were no longer farmable because
18 they were so frequently flooded. The towns and the cities
19 were flooded themselves. So it had general problems in
20 terms of health, life safety, commerce and just the
21 regular ways of going about our lives.

22 So what started to happen was that individual
23 landowners and farmers would build their own levees to
24 protect their land. And as landowners started to work
25 more cooperatively together in how the levees might be

1 placed, it became more a network of contributing to how
2 not only could we manage that sediment and manage the
3 water, but also create area that was available for
4 agriculture.

5 So ultimately over time those levees were then
6 later adopted in early part of the 20th century by the
7 Corps of Engineers and Sacramento Flood Control Project.
8 Those older levees were grandfathered in and further
9 improved over time as funds were available and as the
10 needs were available.

11 But basically what we have to remember is a lot
12 of these levees were basically constructed from whatever
13 material had to be on hand. Sometimes that method was
14 dredged material that was taken from the river and old
15 deposits that had been washed down. Or maybe it was from
16 scraping the adjacent land surface and taking the farmable
17 land down by a few feet to construct these levees. What
18 that means for us today is that this was not the material
19 that you would choose to build a levee if you had other
20 means available. It was coarse, alluvial soils, not very
21 well consolidated, not able to be placed with the
22 compaction standards or the other things of how an
23 engineer would go about and a contractor would
24 appropriately build a levee in contemporary times.

25 And we get these periodic reminders of this, of

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1 how fragile the levee system is. Specifically in 1955 we
2 had a local flood from a levee breach at Shanghai Bend.
3 Which killed a documented 38 people, but it is well known
4 that more than 38 people lost their lives in that flood.

5 After that time in 1967, Oroville Dam Reservoir
6 was created which provided some flood management, some
7 flood continuation ability to take off those peak flows.

8 Later than that New Bullards Bar was created,
9 which also provided additional flood capacity. But even
10 with that being said, we still have a very fragile levee
11 system. And again, we have reminders of that in 1986 and
12 1997, the flood event that inundated tens of thousands of
13 acres right here. And lives were lost, property was
14 damaged and businesses came to a standstill.

15 So it's precisely those kinds of conditions of
16 why additional studies have gone underway and why
17 improvements are necessary to address what's wrong with
18 the levees.

19 So some of those studies have been sponsored by
20 the U.S. Army Corps of Engineers. Others have been done
21 by the State Department of Water Resources as well as
22 Sutter Butte Flood Control Agency. And with each of these
23 studies, we are able to get a better and stronger
24 understanding of the science and engineering of what's
25 going on within the levee prism and also what is

1 underlying the levee within its foundation. And so by
2 virtue of the Assessment District, which was passed
3 in 2010, it is able to fund projects to improve the
4 levees. And there's not only the Feather River West Levee
5 Project, which is the primary purpose of the project,
6 which Sutter Butte Flood Control Agency is seeking to
7 start construction in 2013, but there's a companion
8 federal study, which is the Sutter Basin Feasibility
9 Study. Which was subject to the scoping meetings back in
10 2011.

11 But while that project is moving along at a great
12 pace now, it has been a subject of a national pilot study
13 of how the federal government can move more quickly. It's
14 still subject to authorization by Congress. And that's
15 not a certainty. And once the project is authorized by
16 Congress, then we'll set up a new procreation. Meaning,
17 even if the project was authorized, that's not a
18 guaranteed of funding. But Sutter Butte Flood Control
19 Agency is in a situation where based on the state money
20 that's available and the local money that's been paid
21 right here in the Assessment District, it allows levee
22 improvements to move forward more quickly, coordinated in
23 a way with the Corps of Engineers to ensure it would be a
24 no-regress project. Meaning it would be compatible with
25 and consistent with what the Corps might ultimately

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1 determine to be in federal interest. And that the
2 projects might work together hand in glove.

3 So let's take a little bit of a closer look at
4 the project itself. Once again, it's about 41 miles of
5 levee, west levee Feather River starting at the very north
6 at Thermalito Afterbay and extending down to, but not
7 quite reaching the Sutter Bypass confluence with the
8 Feather River. It stops about three or four miles short
9 of that for this first phase.

10 So what it's intended to do is to achieve
11 200-year protection for urbanized areas. And that's a
12 specific mandate for the state of California, which was
13 passed a few years ago. Also which populations of greater
14 than 10,000 persons need to have 200-year protection. And
15 Sutter Butte Flood Control Agency is seeking this project
16 to be in compliance with that state mandate. And then the
17 non-urbanized areas need to have a level of protection of
18 at least 100 years. So those are the targets. And
19 specifically looking to provide those benefits to
20 Live Oak, Biggs, Gridley, and Yuba City.

21 So this is a map that shows this area. What you
22 see shaded in green is the Sutter Basin Feasibility Study
23 area, which is subject of the Corps' study. And
24 specifically what Sutter Butte Flood Control Agency
25 Project is looking at is a very important leg of that

1 basin, of that perimeter. And that's the 41 miles on the
2 Feather River west levee. So we have Thermalito Afterbay
3 up there at the far north, the top of the map. And then
4 the red-dashed line that represents the project area for
5 the Feather River West Levee Project. And that's where it
6 stops short, not quite reaching the confluence with the
7 Sutter Bypass.

8 So we talked about how these levees don't meet
9 current standards and how these levees have some problems
10 that have subjected them to flooding events in prior
11 years. So the primary deficiencies these levees have are
12 known as through-seepage and under-seepage. And the
13 treatments that are available to address through-seepage
14 and under-seepage, they're fairly common in other projects
15 that have been advanced in other parts of the Central
16 Valley.

17 For through-seepage, we can look at things like,
18 if we put a barrier right in the core of the levee that is
19 less permeable than the ground levee material, then that
20 would serve to impede the water from flowing through. If
21 we were to put additional material on the backside of the
22 levee as a berm appended to the levee, that has the
23 benefit of being able to stop water from popping up and
24 boiling up on the landward side.

25 So here is a cross-sectional diagram that takes a

1 closer look at both of those phenomenon. So what happens
2 is, if you get higher staged in the river, and the river
3 has a lot of force behind it -- water weighs a lot. It
4 wants to move. But the water starts to back up. And if
5 the water can't move down the river channel and behave
6 itself like it's supposed to, the water wants to spread
7 laterally. The water is looking for the path of least
8 resistance. Unfortunately, sometimes that path of least
9 resistance is through the levee or under the levee. So we
10 have a situation where a high river stage, high level of
11 water, creates hydrostatic pressure. It's forcing the
12 water outward, laterally, sideways. If it goes through
13 the levee, what happens is it can start to take that soil
14 material away with it. The water reaches a certain
15 velocity, it's hungry, it's hungry for dirt. So it starts
16 to carry dirt with it. And you see the landslide face of
17 the levee erode away.

18 The other thing that can happen is the water
19 seeping underneath the levee, and it starts to take out
20 the foundation. And it does exactly the same thing. It
21 can reach a certain velocity, a certain force behind it,
22 and it starts to take the dirt with it. And it can cause
23 the levee to collapse right in its foundation.

24 So the levee events that we've seen, the failure
25 events that we've seen, '55, '86, '97, and events prior to

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1 that, these are the situations that have contributed to
2 those levee failures. It's not like we hear on the news
3 about floods in the Midwest in Missouri or Mississippi
4 where they get concerned about flood stage. Yes, we are
5 concerned about flood stage here, but the levees that are
6 along the Feather, it's not an issue that they're not tall
7 enough. It's the fact they're not strong enough. They're
8 not built in the material and not built in the engineering
9 and construction standards that we know today provide a
10 better level of protection.

11 So the project is estimated to cost approximately
12 300-million dollars for that 41 miles. And I talked about
13 the state funding. And the state share is expected to be
14 about 76 percent of that 300 million, with the balance
15 coming from the Assessment District and paid right here
16 locally through that. Which would last over 33 years.

17 So a little bit about the environmental process.
18 National Environmental Policy Act and California
19 Environmental Quality Act, those are the two umbrella
20 environmental regulations. Just as its name implies,
21 National Environmental Policy Act is at the federal level;
22 California Environmental Quality Act is at the state
23 level. What these laws call for is that an agency in
24 considering an action just as Sutter Butte Flood Control
25 Agency is considering an action to adopt and advance the

1 project and put in construction. And the Corps of
2 Engineers has an action in terms of granting permission
3 for that project for those things over which it has
4 authority, need to evaluate what the effects of taking
5 those actions would be on the environment.

6 And again, environment is defined very broadly.
7 And there are about 17 different resource topics that are
8 looked at under National Environment Policy Act and
9 California Environmental Quality Act with a physical
10 environment, built environment and the social human
11 environment.

12 So what the document does is it looks at the
13 various measures and how they've been formulated into
14 alternatives. Measures being things like seepage berm
15 here, slurry cut-off wall there, and how they're crafted
16 into an entire project of alternatives that meet the
17 project objectives. Again, those objectives are 200-year
18 protection in urbanized areas; 100 years for non-urban
19 areas.

20 So looking at the alternatives in a little bit
21 more depth, the document addresses three construction
22 alternatives. And also it's a requirement that a
23 no-action or no-project alternative be a value.

24 So what are those three alternatives?

25 The first alternative looks through the lens of

1 if we take those measures that keep within the existing
2 levee footprint and have minimal, if any, additional
3 right-of-way requirements, can we achieve the project
4 objectives with an alternative that looks like that?
5 That's Alternative 1. Primarily relies on seepage cut-off
6 walls for its entirety.

7 Alternative 2 removes that lens. Alternative 2
8 is looking at what are those additional measures that we
9 might employ if we didn't look at just staying within the
10 levee footprint? What if we looked at other measures that
11 are not within the current levee prism? That's
12 Alternative 2. Taking off that constraint of where we're
13 defining measures.

14 Alternative 3 is a blend of both alternatives 1
15 and 2. If we were to look at what measure, regardless of
16 other factors, best addresses the deficiencies or fixes
17 the levee most effectively, that we can have the highest
18 confidence based on engineering and science. And if we
19 look at real estate, if we look at environmental
20 consideration, if we look at how adjacent properties might
21 be affected, that's Alternative 3. It's factoring all
22 those things to blend alternatives 1 and 2 to have a
23 composite that would be the optimal alternative.

24 So incidentally that's the alternative that the
25 Sutter Butte Flood Control Agency has identified. It's

1 known in the document as the applicant-preferred
2 alternative. So that is the alternative that's based on
3 all of the information, studies to date, and looks like it
4 has the best bearing. And that's what you see in the
5 document.

6 So this document is a joint document. And I
7 described what we mean by that a little bit in the
8 beginning. But just as Sutter Butte Flood Control Agency
9 and U.S. Army Corps of Engineers and the state of
10 California are looking at how to address the problem in a
11 collateral fashion, this document is also put together in
12 collateral fashion. So instead of having a separate
13 document for the Corps of Engineers and a separate
14 document for Sutter Butte Flood Control Agency, they're
15 working cooperatively on a single document under one
16 cover. It's more efficient, it's easier to read, and it
17 provides for more transparent and more effective decision
18 making.

19 So once again, Sutter Butte Flood Control Agency
20 is acting as the lead from the state side and is the
21 California Environmental Quality Act lead in making an
22 ultimate decision. But there are other agencies, too,
23 relying on this document and making their decisions for
24 this project. Such as the California Department of Fish
25 and Wildlife. And certain permissions and authorities

1 that will allow the project to go forward, they will also
2 be allowing this document to approve the project.

3 And we've already talked about the alternatives
4 of the Clean Waters Act and the Rivers and Harbors Act and
5 carrying out their decisions in a transparent way for the
6 National Environmental Policy Act.

7 So a little bit more specifically about the
8 Corps' role. We talked about 408 permission. What is 408
9 for? It's extremely important that if we look at what
10 this project or any project within the system of what it
11 might do, we need to evaluate what effect it might have
12 upstream or downstream or adjacent in ensuring that the
13 integrity and function of the Flood Control System as it
14 was intended would continue in the future. And this
15 particular action would not have any negative effects on
16 that. It also ensures that the federal interest is
17 maintained. And it ensures that the project is not
18 injurious to the public. That's what the 408 process is
19 for.

20 And then there are many factors that are looked
21 at in 408. How is the levee proposed to be constructed?
22 What are the methods to be proposed? What are the
23 materials that we propose? Do they represent what we know
24 today to be an appropriate flood risk reduction measure
25 and comprise the system that we have to have higher level

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1 of confidence in?

2 So why hold this public meeting? Well, one,
3 other than just the nuts and bolts of the environmental
4 process, it's an opportunity to engage in the public. So
5 you get an opportunity to hear what's being planned and
6 how the designs are going to be progressing. It's an
7 opportunity to directly provide input into that process to
8 make sure that we have the record straight.

9 We have a good deal of knowledge and expertise on
10 these resources, but that doesn't mean we know everything.
11 So we very much are looking for your input to make sure
12 the effective resources are described the right way.
13 Whether that's on a property basis or recreation. I mean,
14 there are a number of factors that provide the
15 environment, and we want to make sure that we have
16 those -- that context appropriately described.

17 But beyond the context, we also want to make sure
18 that we have the effects themselves described. And that
19 the significant criteria that then might trigger the need
20 for mitigation. That all those things are appropriately
21 and accurately described as they can be. And your input
22 is very important to that.

23 So we talked about the public scoping meetings
24 that were held in June of 2011. Two of them being right
25 here in this room. That process, as well as the comments

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1 that were received thereafter, contributed to our
2 understanding and knowledge that there are certain key
3 issues that needed special attention within the document.
4 Some of those are construction-related effects. And those
5 are the things that would only occur temporarily while the
6 project was being built. Such as noise that might be
7 generated by construction equipment, or temporary affects
8 on air quality. Either by equipment admissions or dust
9 that would be generated by the project. Or from
10 transportation and traffic effect. Because there might be
11 temporary road closures, or we might expect to see that
12 certain roadways would be subject to higher volume of
13 traffic and materials that would be brought into the
14 project. Or construction workers coming to and from the
15 project.

16 In our afternoon meeting we have a representative
17 from Sutter County Public Works. So we can talk more
18 specifically about how we would like to see things both in
19 the environmental document and construction specification.
20 So that roadways are getting their proper due, or at least
21 that we are able to disclose what the effects might be on
22 those roadways that we have planned. So it was excellent
23 to have his participation.

24 Another issue is river access for recreation, and
25 how temporarily that's associated with the project. There

1 may be loss of access localized in certain areas where on
2 a public safety perspective, the levee might have to be
3 closed because it's being actively worked on.

4 Vegetation removal is another issue that needs
5 special attention. Because for the most part, over this
6 41-mile stretch, these levees are fairly compliant with
7 the Corps and Levee Vegetation Policy. Which has been a
8 subject of controversy. So the document addresses the
9 different compliance mechanisms available in what this
10 project contribution is towards that.

11 So those are some examples of some of the topics
12 that are in the document.

13 So the comment period, it closes on
14 February 13, 2013. And again, all comments received,
15 there will be formal responses that are drafted. That
16 doesn't mean it has to be a formal process. We're very
17 welcomed to other ways that we can engage. So if you have
18 other questions, comments that might not be officially
19 through the record, we certainly want to hear them and
20 work with you on that.

21 But for those comments that are officially
22 submitted, there will be formal responses that will be
23 published in the final environmental impact statement and
24 environmental impact report and included as part of the
25 record for the decision, that both the Corps of Engineers

1 and Sutter Butte Flood Control Agency are making
2 individually.

3 And the different ways that are available to
4 comment: One, we can take them through e-mail. And the
5 e-mail address is handwritten in red on the comment board
6 up there. So if that's a preferred way to submit, then
7 certainly we'll allow you to do that. And that's an
8 address you can take down.

9 We also have these hardcopy comment cards which
10 were likely distributed to you or pointed out back there
11 at that table. We have additional comment cards up here
12 as well. So you can either fill those out this evening
13 and place them in one of the wire baskets, or give them to
14 one of the members of the project team. And that's one
15 way you can submit. Or you can choose to mail them in
16 later. That's perfectly acceptable as well.

17 Not only that, but you don't have to use this
18 form at all. If you would just choose to send in a
19 letter, and send that to regular mail. The comment card
20 is not required. It's whatever way you can best get out
21 your thoughts. We'll accept those.

22 And also, again, Jillian is here to take any oral
23 comments you might have. If you would like an opportunity
24 to speak to somebody and have them formally captured in
25 the record by a professional.

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1 So those are the mechanisms in which you can
2 comment. And then if you want to mail or e-mail comments,
3 I'll leave the slide up for the remainder of the
4 presentation.

5 Jeff Koschak is the environmental lead for the
6 U.S. Army Corps of Engineers and will be the official
7 receiver of the comments. But you can give them to either
8 the Corps of Engineers or the Sutter Butte Flood Control
9 Agency who will be exchanging the comments in their
10 entirety and working collaboratively to get out responses
11 to those comments.

12 And then Ingrid Norgaard is also able to be
13 contacted on behalf of the Sutter Butte Flood Control
14 Agency.

15 So that's all we have in terms of the more
16 formalized presentation. At this point what we'd like to
17 do is if you do have questions or comments that you would
18 like to talk about as a group, that's what we're here for.

19 What we ask that you do is that if you can stand
20 up and also say your name, because we want Jillian to be
21 able to hear you. And we all want to be able to hear you
22 and be able to record your name. And then if you have
23 individual comments that you choose not to share with the
24 entire group or are very site-specific issues, then we
25 have the members of the design team.

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1 We have copies of the map books available. And
2 what the map books are is they are excerpts from the
3 environmental document. That if you want to look at the
4 environmental footprint or if you want to look -- they
5 don't have boundaries. But you can probably do a pretty
6 good job of finding a spot. So we can talk individually
7 about those issues using the map books.

8 So at this point the meeting is yours. And we're
9 available for your questions and comments.

10 Would somebody like to go first?

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PH2-H1

1 FRANK MCCARLEY: Frank McCarley, I live on Second
2 Street. I'd like to know what you do with all the homes
3 on Second Street.

4 MR. ELLIOTT: The question is about the homes
5 that are right along Second Street and what the proposal
6 is there.

7 So, Barry, from overseeing the real estate
8 activities?

9 MR. O'REGAN: So on Second Street, those are
10 existing slurry walls. So we're not proposing those. So
11 on Second Street there's an existing slurry wall through
12 the levee there. And that's specifically Second Street.
13 So we're not proposing work near the homes on Second
14 Street because of the wall. However, one thing we do have
15 to do is we have to make sure that if there are structures
16 built into the levee, that they do not impact the
17 integrity of them. So we have to evaluate whether or not
18 a structure dilutes the levee over the years or impacts
19 the ability that is performed during the flood.

20 But based on what we can tell from here is
21 there's approximately four structures that could be along
22 Second Street. So we will have to talk to those property
23 owners and get our engineers in the field and talk to
24 those property owners and make a determination on whether
25 or not those structures impact the integrity.

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PH2-H2

1 FRANK MCCARLEY: Originally they did not. The
2 dirt from the levees actually -- I got one of them. And
3 they actually pushed them against our building because the
4 Levee District does not take care of any that come off the
5 levee at all.

6 MR. O'REGAN: So our focus right now is not on
7 the structures. Our focus is getting slurry walls in
8 place. Because that's what the high risk is. But we will
9 be coming back and looking at things like, we have
10 upstream, we have berms in the levee, we're working with
11 those property owners doing evaluation, figuring out where
12 the levee was originally and where they are now, and
13 making a determination whether or not that structure
14 presents a risk. And if it does, then we'll get the next
15 step and see what has to happen.

16 There is one structure on Second Street, the
17 Commons building. That is our engineers have looked at
18 that structure on the levee, and they've determined that
19 is an integrity issue. And the work we're proposing to
20 undertake in 2013, that will be it. On the private
21 property on Second Street, we're not proposing any work
22 this year. But we will be evaluating those
23 structures -- and we've seen four -- as best we can tell,
24 whether or not they propose a levee integrity issue.

25 So I'll be over here. I have a map that shows it

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1 in a little better detail.

2 MR. ELLIOTT: Next question or comment?

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PH2-11

1 FRANK COATS: Hello, I'm Frank Coats. And I came
2 to the scoping meeting a year and a half ago and made
3 comments that are similar to what I wanted to make now.

4 My particular concern is recreational access to
5 the river. The California law for general public is that
6 they have a right to be on the river and on the banks of
7 the river up to the high water mark. Wherever the river
8 standby applies small craft. So throughout this levee
9 project, all the banks of the river up to their high water
10 mark are public use area or public resource, where the
11 public already had a right to use. And we are.

12 And also there's something called Public Trust
13 Document. Which basically says that public agencies like
14 Sutter Butte Flood Control Agency or Department of Water
15 Resources or our local levee districts or our counties or
16 our cities shouldn't be involved in unnecessary,
17 unjustified harm to trust interests. And that the trust
18 is applied more stringently in the context of a magnitude
19 servitude, the right to be on the river and banks of the
20 river than it is even on water level.

21 The -- I guess I don't want to bore people to
22 death. The other important thing to realize is the report
23 indicates that access to the river is very restricted,
24 especially north of Yuba City. But access to the levees
25 was restricted by the Levee District and levee maintenance

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PH2-11

1 organizations. Restricted by public agencies who are
2 locking gates and selling gates and locking the public
3 from getting across the levee to the river. And the
4 public has as much right to be in the river as anybody.
5 They have a right to be on the banks of the river. And
6 the counties and city should not be bringing themselves in
7 the position of potential dispute between landowners the
8 river bottoms and the general public.

9 And incidentally, I haven't said anything about
10 the levees or the design of the levees or the safety of
11 the levees or anything like that. I'd be very happy to
12 see this project get started right away, as soon as
13 possible. My house is as much at risk as anybody's.

14 But I'm suggesting something that doesn't have
15 anything to do with integrity of the levees. I'm
16 suggesting levee districts and Sutter Butte Flood Control
17 Agency don't have any business blocking the public from
18 access to the river.

19 And my comments go on the record. But I think
20 that's enough. Thank you.

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PH2-H3

1 FRANK MCCARLEY: He brought up a good point. We
2 own the water mark on Second Street. And we have a
3 problem right now with security. The Levee District has
4 not -- all our houses are getting broken into. And the
5 house I live in got broken into twice in December.

6 So with the trucks going up and down on the levee
7 and the gates being opened, because we have such a large
8 amount of homeless or people living in the river bottoms
9 right now, that's going to be moving up to our houses. So
10 are you guys going to take care of that?

11 MR. BESSETTE: Well, that's a good comment. As
12 part of construction, we'll have construction managers on
13 site whenever the activities -- construction activities
14 are occurring. So we'll have to work with the local
15 property owners in the Levee District to understand what
16 the problems are with either homeless communities or other
17 people who were maybe trespassing on certain properties
18 and try to ensure that those are limited.

19 When construction is occurring, that tends to
20 disburse homeless camps and others like that. So that is
21 a good thing from your perspective.

PH2-H4

22 FRANK MCCARLEY: No one patrols the levee for
23 that down the water. So the construction, I'm okay with.
24 It's at five o'clock when they're done, you're going to
25 have this -- when the lights go down at night our levee is

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PH2-H4



1 full of people walking back and forth.
2 MR. BESSETTE: Well, we have construction fencing
3 up also. Our activities are going to go past five
4 o'clock. A lot of our work is going to be very long days
5 and into the evening hours. So it's going to be
6 continuous activities. We need to get in and get these
7 projects done to get the protection that this community
8 needs and get in and have these projects completed.

9 So what I'd like to do is pass on these comments
10 to the Levee District in your area. And it may help to
11 talk to the law enforcement also. But really our project
12 is building the levees.

PH2-H5

13 FRANK MCCARLEY: My next question is since we're
14 going to have trucks going up and down the levee right
15 there, some of these homes are almost 200 years old. And
16 they won't take a lot of vibration. I mean, they're set
17 on red brick foundations and they're not tight.

18 MR. BESSETTE: What we do in cases like that,
19 we'll take pre-construction photos. We'll work with the
20 landowners if they allow us to go inside and also take
21 photographs, so that we can show that if our construction
22 activities do damage to those homes, that we would take
23 care of that.

PH2-H5
cont'd

24 FRANK MCCARLEY: Our family has three houses
25 there. So it's --

PH2-H6

1 MR. O'REGAN: When they did the slurry wall
2 before did you have issues with the grounds then?

3 FRANK MCCARLEY: Yes. All the houses cracked.
4 We bought our house right after that and the stress that
5 was in the house. So yeah, all the houses were stressed.
6 They all relieved. Grounds kind of relaxed, and so the
7 houses moved, some of them.

8 MR. O'REGAN: That's good to know. Thank you.

9 FRANK MCCARLEY: It is what it is.

10 MR. ELLIOTT: Next question?

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PH2-I1

1 LAWRENCE BURNS: I live in Yuba City. One of the
2 things that really helped District 1 as far as levee
3 maintenance was getting tours of people down to see the
4 construction that went along, showing the deficiency of
5 the levee, raising public awareness of the problems that
6 are there.

7 Everything north of Yuba City is almost like a
8 mystery. You can't see it, you can't inspect it, you
9 can't look at it. Locked gates everywhere. It would be
10 really nice if there was some kind of public relations
11 program to show the citizens what's going on. You get a
12 lot more public support that way.

13 MR. INAMINE: That's a good comment. The
14 Assessment District has been passed with a lot of public
15 outreach in the work we're going to be undertaking
16 beginning this summer. We don't want to create any
17 illusion that it's not going to create a lot of distress.
18 There's going to be destruction of people's lives. There
19 is going to be issues we're going to have to handle on a
20 case-by-case basis with property owners. Some of the
21 issues that you said, like security and homes and other
22 structures.

23 And so your point is well taken that more public
24 outreach should be done to let people know why we're doing
25 what we're doing and how we're doing it. That's our

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1 charge. That work is planned for 2013. We have a lot of
2 time to do that.

3 MR. ELLIOTT: Next comment or question?

4 JED (?): If I can speak about the vibration
5 thing. With potential vibration damage for historic
6 structures, which most of those houses on Second Street
7 are, and we typically have an analysis done beforehand to
8 determine based on the types of construction that are
9 going to occur, the distance at which vibration damage
10 would be expected, and typically if there are structures
11 in that area that might be sensitive to it. Based on
12 that, there's a Cal Trans manual that looks at different
13 structure types and their sensitivity to vibration,
14 including foundation types. And those will be required
15 through the National Historic Preservation Act to monitor
16 for vibration to ensure these damages don't occur.

17 So in addition to just the project concern with
18 damaging people's houses, there's another law that's going
19 to be on your side as well. And we'll be making the point
20 to make sure that there isn't any damage to those
21 structures. And they -- if you look in the EIS, that area
22 has been noted as an area of historical significance
23 already. So we're working on it.

24 MR. ELLIOTT: Thank you, Jed.

25 Next question or comment?

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PH2-K1

1 UNIDENTIFIED MALE FROM AUDIENCE: The
2 construction of levees magnitude is going to take a lot of
3 trucks carrying a lot of gravel, and so it doesn't disrupt
4 construction process, are going to do a job on the roads.
5 And these roads in the Sutter County -- let's say they're
6 old.

7 MR. BESSETTE: We're in the process of
8 identifying our borrowed sources for the project. Once
9 those sources are identified, we'll identify the haul
10 routes to the familiar project sites. But we're going to
11 be working closely with Sutter County, Yuba City on
12 identifying which haul roads they want us to utilize, what
13 the condition of those roads are, characterizing them and
14 going back and looking at how they survive throughout the
15 construction and what needs to be done once they're
16 restored.

17 MR. ELLIOTT: Next question or comment?

18 So again, we have members of the private team
19 here. We have map books. If you have any questions or
20 any comments, that's what we're here for.

21 We have one more over here.
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PH2-L1

1 VICKI STEVENSON: I used to work in Sutter
2 County. The Levee District -- as we are taxed on that
3 already, which keeps going up. And we looked at our tax
4 bill this year. We had more Levee District taxes added to
5 our tax bill. How much more are you going to keep taxing
6 us on a project that is not getting completed? And all
7 you're doing is having these studies, which cost more
8 money to us as property owners?

9 I mean, we are taxed on top of tax. And you're
10 not getting anywhere. I retired at a tax collector's
11 office twelve years ago, and this was talked about back
12 then. Nothing has been accomplished. And you just keep
13 raising our taxes a little bit more. And look at the
14 average age in this audience. A lot of people are upside
15 down in their homes. They can't keep affording these
16 taxes. And you're not getting anything accomplished.

17 I was raised over in Humboldt County and survived
18 a flood over there. We never had -- and environmentalists
19 are killing people. You got this little fish or little
20 bug or this and that. You're always going to have a bug
21 or fish or something that no one wants to hurt. Well, I'm
22 sorry. Life is life. If you're going to save lives, do
23 it and do it right. And you're killing people.

24 MR. BESSETTE: Let me address your comment about
25 we're not getting anything done. When the assessment was

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1 passed in 2010, I believe it was talked about having
2 construction started in 2013. We're now in 2013, and
3 we're going onto bid in March. So in two months we're
4 going to be going out to bid on our first project, a
5 15-mile project. And we're going to start construction
6 this summer.

7 So I think progress is being made. We're going
8 to be in construction this year. It's going to take about
9 two years to complete that project. At the same time
10 we're going to be going out to bid on the north levees,
11 north of Live Oak in early 2014. So we'll be out in
12 construction on that project in 2014. So you're going to
13 see a lot of construction happening as promised.

14 VICKI STEVENSON: Well, not only that, okay,
15 FEMA -- good ol' FEMA -- has gone in and assessed certain
16 areas to be a flood zone. We're south of Bogue Road.
17 Right in the prime. We didn't get flood until three days
18 later after the '55 flood. Because it was backed up in
19 southern Sutter County. And the rates that they're
20 charging is just -- I mean, if you've got a barn, it's not
21 worth anything. That costs you more than your damn home.
22 There's no justification for the revalue of what they're
23 charging for what the progress of the project is doing for
24 us, is what I'm trying to say.

25 MR. INAMINE: Let me address -- well, first of

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1 all, let me recognize -- and I certainly understand your
2 frustration. So let me point out, I'm not going to -- I'm
3 going to try to say this without sounding defensive. But
4 the whole reason that this project was strategized, and
5 the way it was funded, and the way that the state came in
6 with fund projects like this is because the Flood Control
7 Agency was organized in 2007 because of the frustration
8 waiting for federal feasibility study and authorization,
9 procreation, design construction. And it started in 2000.

10 By 2000 people like yourself were tired of that,
11 of waiting. And then in 2010 when the assessment was
12 passed, that was passed with an eye towards leveraging
13 bond money to have state local sort of put themes and do
14 it before the Corps of Engineers. Because of the fact
15 that federal process was made so long.

16 I don't want to discount the Corps of Engineers
17 process. That's an important process for us. But the
18 whole point of this project, the way the whole strategy
19 behind it is it was a funded project, we did it as fast as
20 we could, 2010. The legislation was passed, getting
21 construction in 2013, being able to meet those deadlines.
22 We have some big issues before we get into construction in
23 2013. I do not want to dispel -- I don't want to paint a
24 rowdy picture. We've got this big obstacle for 2013. So
25 far we've been able to keep those promises. It's our

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1 intention to advance this construction that was done
2 in 2010, '13 through '15, to get all of these structures,
3 get all these levees improved for all 41 miles.

4 And the FEMA issues is one of the drivers for
5 this, right? Because you have essentially three areas,
6 FEMA zones from the Butte County north of their map, flood
7 insurance in the middle between roughly Steward Road and
8 Butte County line. So far they have not been mapped in.
9 FEMA wants to, because they don't -- we don't have
10 100-year flood protection right now. We don't. We
11 haven't had it for a long time. It's been recognized for
12 years now, but we don't have 100-year flood protection.
13 We're withstanding. We've been meeting with FEMA both
14 here and in Butte City saying, "Don't map this in the
15 flood plan." If you do that, you're going to have to go
16 back a couple years from now in 2016 and take it out of
17 the floods plan, because we have construction. We're not
18 just talking at you. We've passed an assessment, we've
19 got state money, and we're going to go to town here in
20 2013. So that so far has been effective.

21 Now, south -- you're absolutely right. I don't
22 want to discount that. South is a problem. Because that
23 was already mapped into the flood line.

PH2-L3

24 VICKI STEVENSON: Well, between Natomas and
25 Sacramento to there, they're having the same problem.

PH2-L3



1 They can't build because of the flood plane. And that's
2 nuts.

3 MR. INAMINE: So I don't know where your home is
4 exactly, but it's our intention to go as far as south as
5 possible. Now, I said that -- for example, the Corps
6 feasibility study is important to us. That's also a
7 project that is our fast track. And that extends the
8 project further south. And we have money to go to do with
9 the state. State sort of parcelled out their money. And
10 we're subject to sort of the way they fund projects.

11 Now, the Corps feasibility study, if things go
12 through as planned, is going to extend the project further
13 south. That will affect where you are. That's a good
14 thing. That will allow us to stand our project and stand
15 state-funded project advancement. And that would directly
16 affect you. And depending on where your property is, that
17 will drop out high flood insurance rates that you're
18 probably paying right now.

19 And again, for the record, regardless of whether
20 you have 100 to 200 federal interest level of flood
21 protection, everybody needs to have flood insurance.
22 You're going to pay much lower rates if you have strength
23 in levees like the ones we're proposing in this
24 presentation.

25 But absolutely, south part of the basin, that's

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1 tough. It's very difficult. Flood insurance, higher
2 rates. And you're subject to the restrictions of farms
3 and another front or even a house that burns down.

4 So on another front, the agencies is taking a
5 part in new legislation that would relax FEMA restrictions
6 for some of those issues I just named in agricultural
7 areas, like, I think about where you live. So that's a
8 separate track. This new FEMA ag zone. But we do have a
9 lot of support from our congressional and working with the
10 collation to advance that legislation through Congress,
11 because it just doesn't make sense.

PH2-L4

12 VICKI STEVENSON: I know a fella that had a home
13 that caught on fire. And it's in a flood zone. It was
14 two years from the property being paid off. And of course
15 you couldn't rebuild.

16 MR. INAMINE: Right. And he lost a big percent
17 of the value. And unless you build a house 25 feet high,
18 you can't --

PH2-L5

19 VICKI STEVENSON: Yeah. And he was in our age
20 group. And that's devastating to people that have been in
21 these homes for all their lives.

22 MR. INAMINE: So it's -- there are two
23 tracks -- probably three tracks to addressing those
24 issues. One is improvements obviously get to a higher
25 level of publication. So those restrictions will go away.

1 There is the Corps feasibility study which is also a
2 measure. But we're going to have to wait a little bit
3 longer. But that's also an avenue flood protection that
4 will make those restrictions go away. And then there's a
5 federal legislation. And you'll oversee that as well.

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PH2-M1

1 UNIDENTIFIED MALE FROM AUDIENCE: Do you have to
2 mitigate for this project off site?

3 MR. ELLIOTT: Do you mean -- what type of
4 mitigation do you mean?

5 UNIDENTIFIED MALE FROM AUDIENCE: Fish and game.

6 MR. ELLIOTT: Yes. Right now we're still in the
7 process of finalizing what those effects might be and the
8 mitigations necessary. But in terms of fish and wildlife,
9 there is a surplus area available at the restoration site
10 that was created by the Star Bend setback. And right now
11 it's looking like the math is very close. That any of the
12 projects needs would fit there. And that is the primary
13 place being looked at.

14 Any additional mitigation needs that that site
15 might not be able to fulfill, either because there's not
16 quite an area needed or it's not quite the right habitat
17 type, the most likely answer is that it would be a very
18 small additional increment. And that would be through
19 credits like litigation bank most likely.

20 MR. INAMINE: And also I'm hearing a concern
21 about mitigation, additional property part of mitigation.
22 We have a cooperative agreement with the River Levee
23 Improvement Agency across the river to use some of their
24 area that's already been behind the setback of mitigation
25 for our work as well. So I mean, it's going to minimize.

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PH2-M2

1 UNIDENTIFIED MALE FROM AUDIENCE: Well, between
2 Bear River and Yuba River, it has been a lot. It's about
3 1,800 acres. That's a lot.

4 And by the way, for all you guys here in
5 Yuba City, you should go and thank Yuba County. They
6 moved the levees back. And in case of a flood event, the
7 water on the levee will not be as high as they used to be.
8 Because that's a choke point. That's why they moved the
9 whole levee back. So there's another -- the Bear River
10 and the Feather River, so there's another eighteen,
11 sixteen hundred acres. That's a lot for Yuba City. Until
12 we get our levees taken care of. It's a good thing.

13 MR. ELLIOTT: Other questions or comments?
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PH2-N1

1 UNIDENTIFIED FEMALE FROM AUDIENCE: I just have a
2 quick question. The bugs and shrubs, how much money do we
3 spend? How much time has been delayed over the issue of
4 the elderberry beetle and all these other animals that are
5 more important than my property and my children and
6 grandchildren?

7 MR. ELLIOTT: Are you asking if the project got
8 delayed because of those environmental issues?

PH2-N1
cont'd

9 UNIDENTIFIED FEMALE FROM AUDIENCE: Absolutely.
10 Back in '86 I lost the ranch and leverage because they
11 wouldn't let me go back and rescue them. And it was just
12 because elderberry beetle was a lot more important than
13 us.

14 And I know all these studies -- this is
15 ridiculous. It seems to me to have a dictator say, "Okay.
16 All this crap is extended. You're going to help protect
17 and build people's property."

18 MR. ELLIOTT: At this point what I can tell you,
19 and I definitely empathize with your concern, there has
20 not been a project delayed that has been with
21 environmental issues.

22 In terms of planning that have incurred to come
23 up with best measures available to address the
24 deficiencies in terms of the engineering studies that need
25 to go way to look at the voracity of that plan and make

PH2-N2

1 sure that it is meeting standards. And then the property
2 acquisition process, environmental list is going along in
3 parallel with all of these things in this point, all
4 converging, and will hopefully get construction started in
5 2013. At this point, environmental causes have not been a
6 result of any scheduling delay.

7 UNIDENTIFIED FEMALE FROM AUDIENCE: And that's
8 just for the current homes?

9 MR. ELLIOTT: Yes.

10 Other questions or comments?
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PH2-O1

1 UNIDENTIFIED MALE FROM AUDIENCE: Since you are
2 enforcing the levees from Thermalito all the way down to
3 where joint of Sacramento River, has the river been -- is
4 there overflow areas being designed? Because the further
5 downstream you get the more water there is. And I know
6 it's a river. It looks like the same width as Thermalito
7 as it is down in Sacramento back south.

8 I think that's what the gentleman mentioned
9 earlier, that south of Marysville, so it is wider.

10 MR. BESSETTE: That is true. And this project
11 did look at alternatives such as setback levees. And
12 those will not be equal for you because they take up a lot
13 of land and impact by doing that. We're going to be
14 reenforcing our levees in place by installing slurry
15 walls. And basically that's the predominant feature.

PH2-P1

16 UNIDENTIFIED MALE FROM AUDIENCE: Are any levees
17 going to be moved because of restrictions on the river?

18 MR. BESSETTE: No, not as part of this project.
19 Further downstream they are looking further down from our
20 project. When you get to the confluence of the Sutter
21 Bypass there is an idea alternative of a setback levee in
22 that area. And that'll be studied in the future. But our
23 project is not setting back levees.

24 But you mentioned across the river, Yuba and
25 Trilia (phonetic) have setback levees in those areas.

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PH2-P2

1 That does help widen out the flood plan for both sides,
2 too.

3 UNIDENTIFIED MALE FROM AUDIENCE: Is there any
4 provisions made to increase the river flow capacity by
5 removing some of the snags?

6 MR. BESSETTE: This project will not be doing
7 that. There's other studies like Feather River Corps
8 Management Plan that's looking at removing some
9 obstructions within the river. But that alone will not
10 alleviate the desire or the need for our project to move
11 forward.

12 MR. INAMINE: Even if we make those improvements,
13 you still have deep under-seepage issues. And there's the
14 same water surface elevations that will create the same
15 flood problems we've discussed. So we still have to fix
16 the levees.

17 And the issues also with sediment, we talked
18 about hydraulic mining and some of the controversies
19 associated with dredging. And that's very expensive. And
20 I don't know how to tell you about the environmental
21 issues associated with habitat. But a lot of that
22 sediment is still moving down the system. So we clear it
23 out, and it's replaced. But there's still remnants of the
24 old hydraulic mining. And it comes back. So regardless,
25 we've got to fix the levees for under-seepage.

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PH2-Q1

1 ROY STEVENSON: I was born and raised here. I
2 live in the same -- my name is Roy Stevenson. And I went
3 through '55. And I was a farmer in my younger years.
4 Forty years with PG&E. But I don't know how many farmers
5 we've got in here a whole bit, but you can't run water
6 through a dirty ditch. All the orchards and everything
7 else is planted in these rivers, they're going to have to
8 take them out. I'm sorry. I'm with the farmers and all
9 that, but they're going to have to go to seasonal crop
10 farming.

11 Get those trees out. It's like putting a cork in
12 a bottle. You run out of water down here and it hits
13 these trees, it backs up. There's your levee problem.
14 Dredge the damn river, get the God-dang rivers clean like
15 they're supposed to be. Like they used to be. And your
16 water will go down the river and go on out.

17 But until you can control that part, you ain't
18 going to control nothing. And the environment is going to
19 stop you every time you turn around. So that's the whole
20 bit. You have to clean the damn rivers and you'll take
21 care of your problem. These levees have held for many
22 years. And you people all think you have a bright idea,
23 "We can slurry these walls. We can do this. We can do
24 that." But you still have the cork in the bottle. It's
25 going to run over the top.

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PH2-Q1

1 I saw the water in '55. It was running over the
2 top of the levee. It wasn't going through the side, it
3 wasn't going anywhere else. It was going over the top of
4 the damn thing until it finally broke. They turn around
5 and make Shanghai Bend. That was going to solve all our
6 flood problems. So we had the water coming in and hitting
7 the direct levee. They straightened it out, now I
8 understand they're going to carry out and work on it
9 again.

10 So what good did that do? Not a damn thing. And
11 you people all want to sit around here and play this game
12 and use up all this money that we're going to have for
13 studies and all this other crap, and you don't do a damn
14 thing about it. The third bridge is never going to be
15 built in our lifetimes. The reason is they've kept
16 studying all the times, they've used up all the money for
17 the third bridge. So we're all right back where we
18 started. All this is just a bunch of bureaucracy bull
19 crap that's going to God dang waste nothing except our
20 money and our time.

21 If I could get out of my place, I'd get the Sam
22 hell out of Sutter County. I can tell you that.

23 MR. ELLIOTT: Other comments or questions?
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PH2-R1

1 UNIDENTIFIED FEMALE FROM AUDIENCE: I have a
2 question. The dredging -- I've been to different groups
3 and all that. We've been talking about it for years.
4 Have you guys actually looked at the dredging? There's
5 lots of private companies that would love to do it. Our
6 taxpayer dollars could take care of the problem.

PH2-Q2

7 ROY STEVENSON: Even back when my father was
8 alive they wanted to dredge the rivers. Put it along the
9 banks. It's probably not the right stuff, but at least
10 you got a river bank down where it used to be. Not higher
11 than the land on the outside.

12 You can hardly run a boat down Feather River or
13 Sacramento. With debris and everything that's in the
14 river, you can't get a boat through there. They used to
15 run a barge up Colusa. You couldn't even begin to get a
16 barge up in Colusa now.

17 But what have we done? We've done it to
18 ourselves. We've let the environmentalist people tell us
19 what we can do to protect lives and save property because
20 they don't want to kill some stupid bug.

21 MR. INAMINE: Well, there's a lot there. There's
22 a lot there. And there's a lot of political philosophy I
23 can't even begin to address.

24 Let's talk about dredging and levees. Since
25 1907, if you discount all the over topic failures where

1 water comes over the top, there's been at least seven
2 failures of where the water is not even come close to
3 where these levees were authorized to operate. So they're
4 supposed to operate at a certain level of operation.
5 State locals, they said your levee is supposed to operate.
6 And they've done it seven times. Discount the other
7 overtopping failures over the top. Seven times we've had
8 failure of the levee.

9 It didn't come up to that it didn't perform to
10 what it was supposed to do. And 1955 is one of the those
11 failures. In most cases it came underneath the levee and
12 blew the levee out. And the thing about those type of
13 failures the under-seepage failure is they only blow out
14 when the water was very high and they fail
15 catastrophically. And I had personally seen levees that
16 have undergone under-seepage and knocked on people's door
17 to get the hell out of Dodge. Because it's a very scary
18 thing when the water gets up very high. And that's what
19 contributed to -- that's what generally contributes to
20 loss of life is deep under-seepage.

21 I understand your point about dredging. It
22 sounds like -- so dredging, taking the volume out between
23 the channels to provide more conveyance, absolutely. That
24 works in lots of cases. Taking out trees and snags, in
25 many cases that works. And we've looked at that. And

1 again, in a perfect world, if we could do that, we'd still
2 have an issue with deep under-seepage. That's contributed
3 to at least seven failures through the levee or under the
4 levee. It just means you had a really lousy levee on a
5 really lousy foundation, and the levee blew out, and in
6 some cases people died. And we're trying to address that
7 issue.

8 And dredging, environmental issue, yeah, that's a
9 problem. And that's the legal infrastructure we live in.
10 I can't begin to address that. We're just trying to
11 address the highest risk failure mode right now that we
12 can do with the available money that we have.

13 Over the long term there is a study -- again,
14 another study, and I understand the frustration of
15 studies -- that's looking at dredging another time. But
16 it really doesn't affect what we're doing. We have to fix
17 these levees right now in the places we know they're going
18 to break.

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PH2-S1

1 FRANK MCCARLEY: Can I ask another question?

2 Are local contractors going to do this or is it
3 going -- since we have an economic slow down in this area
4 for local --

5 MR. ELLIOTT: The question from Frank McCarley is
6 whether the work will be done by local contractors.

7 MR. INAMINE: Tomorrow there is a contractors
8 outreach right here in Yuba City to invite contractors,
9 and obviously there's interest to invite local
10 contractors, to submit this on this contract. Now, we're
11 a public agency, we are -- it's in our charge to get as
12 much work with the lowest price. And there's only so many
13 things we can do to facilitate local construction. But
14 we're very fortunate in this area that there's a couple of
15 very confident contractors that -- through that have been
16 tracking this project. And we've been talking to them.
17 So we expect they'll be a lot more participation in this
18 project. It's well suited for construction companies.

19 MR. BESSETTE: I think Mike covered it. We're
20 following the Public Contract Code, we're holding a
21 contract outreach program tomorrow. We've invited --
22 we're going to get a packed house over at Yuba City
23 Counsel Chambers tomorrow morning. But it could go to an
24 outside, out of the area, out of the state contractor.
25 It's whoever has the best price for the work. And we're

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1 all paying money to contribute to this. So we want to get
2 the biggest bang for our buck. And that's how it's going
3 to be.

4 But we are going to promote local contractors,
5 local vendors, local material providers. We're going to
6 try to get the word out so that any contractor who gets
7 our project tries to utilize local services as much as
8 possible. So that's what our Board of Directors has sort
9 of mandated.

PH2-T1

10 UNIDENTIFIED MALE FROM AUDIENCE: Do you have a
11 solicitation document out so people can see?

12 MR. BESSETTE: No. We'll be out to bid in March,
13 so we'll be entering our bid documents. And I believe
14 March 18th is when we should be out to bid formally on the
15 first project.

PH2-T2

16 UNIDENTIFIED MALE FROM AUDIENCE: Will you put
17 that out so public can see it?

18 MR. BESSETTE: Yes. It will be advertised in the
19 newspaper, and it'll be on our Web site. We want to get
20 the word out as much as possible.

PH2-U1

21 UNIDENTIFIED FEMALE FROM AUDIENCE: Were there
22 any Web sites (inaudible) and veterans on it?

23 MR. BESSETTE: No, there's not. We're following
24 Public Contract Code. And it's not like DVD or any
25 advantage like that where some federal contracts have

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PH2-V1

1 that. Ours does not.

2 ANDREW: (Inaudible) and low price down at
3 Nicholaus, they must have had a good price. And the guy
4 crapped out. So whoever got a good deal, really didn't
5 get a good deal. So how do you figure the lowest price
6 when they come in low and then say, "Oops, we can't do
7 it." How do you check them?

8 MR. BESSETTE: This is going to be a very large
9 contract. It's approximately a 50-million dollar
10 contract. We're going to have to have contractors who can
11 bond to those amounts. We have -- it's part of our bid
12 process, they have to show that they have done many
13 projects like ours in the past. We'll be checking on
14 that. So they have to be qualified to do the work. So we
15 would investigate that as part of our process.

16 But it's going to be big -- pretty good-size
17 contractor to be able to handle a job like ours.

PH2-V2

18 ANDREW: One company or several?

19 MR. BESSETTE: I would assume there will be a
20 prime with subcontractors as part of their team.

PH2-V3

21 ANDREW: Does anybody check on subcontractors?

22 MR. BESSETTE: We check on everybody. They have
23 to submit qualifications for all the subcontractors up to
24 half a percent of the work. So we're going to be seeing
25 who those subs are, and we'll evaluate those.

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1 MR. ELLIOTT: Is there a final question or
2 comment?

3 And after this we'll be able available to take
4 people's questions and comments.

5 (Thereupon the meeting adjourned at 7:39 p.m.)
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Response to PH2-H, Frank McCarley

PH2-H1

On Second Street, those are existing slurry walls. We're not proposing those. On Second Street there's an existing slurry wall through the levee there. And that's specifically Second Street. We're not proposing work near the homes on Second Street because of the wall. However, one thing we do have to do is we have to make sure that if there are structures built into the levee, that they do not impact the integrity of them. So we have to evaluate whether or not a structure dilutes the levee over the years or impacts the ability that is performed during the flood. But based on what we can tell from here is there are approximately four structures that could be along Second Street. So we will have to talk to those property owners and get our engineers in the field and talk to those property owners and make a determination on whether or not those structures impact the integrity. Comment did not necessitate change to the Final EIS.

PH2-H2

So our focus right now is not on the structures. Our focus is getting stair walls in place, because that's what the high risk is. But we will be coming back and looking at things like, we have upstream, we have berms in the levee. We're working with those property owners doing evaluation, figuring out where the levee was originally and where they are now, and making a determination whether or not that structure presents a risk, and if it does, then we'll get the next step and see what has to happen. There is one structure on Second Street, the Commons building. That is our engineers have looked at that structure on the levee, and they've determined that is an integrity issue, and the work we're proposing to undertake in 2013, that will be it. On the private property on Second Street, we're not proposing any work this year. But we will be evaluating those structures, and we've seen four, as best we can tell, whether or not they propose a levee integrity issue. Comment did not necessitate change to the Final EIS.

PH2-H3

Well, that's a good comment. As part of construction, we'll have construction managers on site whenever the activities—construction activities are occurring. So we'll have to work with the local property owners in the Levee District to understand what the problems are with either homeless communities or other people who were maybe trespassing on certain properties and try to ensure that those are limited. When construction is occurring, that tends to disburse homeless camps and others like that. So that is a good thing from your perspective. Comment did not necessitate change to the Final EIS.

PH2-H4

Well, we have construction fencing up also. Our activities are going to go past five o'clock. A lot of our work is going to be very long days and into the evening hours. So it's going to be continuous activities. We need to get in and get these projects done to get the protection that this community needs and get in and have these projects completed. So what I'd like to do is pass on these comments to the Levee District in your area. And it may help to talk to the law enforcement also. But really our project is building the levees. Comment did not necessitate change to the Final EIS.

PH2-H5

What we do in cases like that, we'll take pre-construction photos. We'll work with the landowners if they allow us to go inside and also take photographs, so that we can show that if our construction activities do damage to those homes that we would take care of that. Comment did not necessitate change to the Final EIS.

PH2-H6

That's good to know. Thank you. Comment did not necessitate change to the Final EIS.

Response to PH2-I, Frank Coats

Thank you for your comment. Comment did not necessitate change to the Final EIS.

Response to PH2-J, Lawrence Burns

PH2-J1

The Assessment District has been passed with a lot of public outreach in the work we're going to be under taking beginning this summer. We don't want to create any illusion that it's not going to create a lot of distress. There's going to be destruction of people's lives. There is going to be issues we're going to have to handle on a case-by-case basis with property owners. Some of the issues that you said, like security and homes and other structures. And so your point is well taken that more public outreach should be done to let people know why we're doing what we're doing and how we're doing it. That's our charge. That work is planned for 2013. We have a lot of time to do that. Comment did not necessitate change to the Final EIS.

Response to PH2-K, Unidentified Male

PH2-K1

We're in the process of identifying our borrowed sources for the project. Once those sources are identified, we'll identify the haul routes to the familiar project sites. But we're going to be working closely with Sutter County, Yuba City on identifying which haul roads they want us to utilize, what the condition of those roads are, characterizing them and going back and looking at how they survive throughout the construction and what needs to be done once they're restored. Comment did not necessitate change to the Final EIS.

Response to PH2-L, Vicki Stevenson

PH2-L1

Let me address your comment about we're not getting anything done. When the assessment was passed in 2010, I believe it was talked about having construction started in 2013. We're now in 2013, and we're going onto bid in March. So in two months we're going to be going out to bid on our first project, a 15-mile project. And we're going to start construction this summer. So I think progress is being made. We're going to be in construction this year. It's going to take about two years to complete that project. At the same time we're going to be going out to bid on the north levees, north of Live Oak in early 2014. So we'll be out in construction on that project in 2014. So

you're going to see a lot of construction happening as promised. Comment did not necessitate change to the Final EIS.

PH2-L2

So let me point out, and I'm going to try to say this without sounding defensive, but the whole reason that this project was strategized, and the way it was funded, and the way that the state came in with fund projects like this is because the Flood Control Agency was organized in 2007 because of the frustration waiting for federal feasibility study and authorization, procreation, design construction. And it started in 2000.

By 2000 people like yourself were tired of that, of waiting. And then in 2010 when the assessment was passed, that was passed with an eye towards leveraging bond money to have state local sort of put themes and do it before the USACE. Because of the fact that federal process was made so long.

I don't want to discount the USACE's process. That's an important process for us. But the whole point of this project, the way the whole strategy behind it is it was a funded project; we did it as fast as we could, 2010. The legislation was passed, getting construction in 2013, being able to meet those deadlines. We have some big issues before we get into construction in 2013. I do not want to dispel—I don't want to paint a rowdy picture. We've got this big obstacle for 2013. So far we've been able to keep those promises. It's our intention to advance this construction that was done in 2010, 2013 through 2015, to get all of these structures, get all these levees improved for all 41 miles.

The Federal Emergency Management Agency (FEMA) issues are one of the drivers for this, right? Because you have essentially three areas, FEMA zones from the Butte County north of their map, flood insurance in the middle between roughly Steward Road and Butte County line. So far they have not been mapped in. FEMA wants to, because we don't have 100-year flood protection right now. We don't. We haven't had it for a long time. It's been recognized for years now, but we don't have 100-year flood protection. We're withstanding. We've been meeting with FEMA both here and in Butte City saying, "Don't map this in the floodplain. "If you do that, you're going to have to go back a couple years from now in 2016 and take it out of the floodplain, because we have construction. We're not just talking at you. We've passed an assessment, we've got state money, and we're going to go to town here in 2013. So that so far has been effective.

Now, south—you're absolutely right. I don't want to discount that. South is a problem. Because that was already mapped into the flood line.

So I don't know where your home is exactly, but it's our intention to go as far as south as possible. Now, I said that, for example, the USACE's feasibility study is important to us. That's also a project that is our fast track, and that extends the project further south, and we have money to go to do with the state sort of parceled out their money. We're subject to sort of the way they fund projects. Now, the USACE's feasibility study, if things go through as planned, is going to extend the project further south. That will affect where you are. That's a good thing. That will allow us to stand our project and stand state-funded project advancement, and that would directly affect you. Depending on where your property is, that will drop out high flood insurance rates that you're probably paying right now. And again, for the record, regardless of whether you have 100 to 200 federal interest level of flood protection, everybody needs to have flood insurance. You're going to pay much lower rates if you have strength in levees like the ones we're proposing in this presentation.

But absolutely, south part of the basin, that's tough. It's very difficult. Flood insurance, higher rates. And you're subject to the restrictions of farms and another front or even a house that burns down. So on another front, the agencies are taking part in new legislation that would relax FEMA restrictions for some of those issues I just named in agricultural areas, like, I think about where you live. So that's a separate track. This new FEMA ag zone. But we do have a lot of support from our congressional and working with the collation to advance that legislation through Congress, because it just doesn't make sense. Comment did not necessitate change to the Final EIS.

PH2-L3

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PH2-L4

Right, and he lost a big percent of the value. Unless you build a house 25 feet high, you can't—Comment did not necessitate change to the Final EIS.

PH2-L5

So it's—there are two tracks—probably three tracks to addressing those issues. One is improvements obviously get to a higher level of publication. So those restrictions will go away. There is the USACE's feasibility study which is also a measure. But we're going to have to wait a little bit longer. But that's also an avenue flood protection that will make those restrictions go away. And then there's a federal legislation. And you'll oversee that as well. Comment did not necessitate change to the Final EIS.

Response to PH2-M, Unidentified Male

PH2-M1

Yes. Right now we're still in the process of finalizing what those effects might be and the mitigations necessary (see Appendix F.3). But in terms of fish and wild life, there is a surplus area available at the restoration site that was created by the Star Bend setback. And right now it's looking like the math is very close. That any of the projects needs would fit there. And that is the primary place being looked at.

Any additional mitigation needs that that site might not be able to fulfill, either because there's not quite an area needed or it's not quite the right habitat type, the most likely answer is that it would be a very small additional increment. And that would be through credits like litigation bank most likely.

And also I'm hearing a concern about mitigation, additional property part of mitigation. We have a cooperative agreement with the River Levee Improvement Agency a cross the river to use some of their area that's already been behind the set back of mitigation for our work as well. So I mean, it's going to minimize. Comment did not necessitate change to the Final EIS.

PH2-M2

And by the way, for all you guys here in Yuba City, you should go and thank Yuba County. They moved the levees back. And in case of a flood event, the water on the levee will not be as high as they used to be. Because that's a choke point. That's why they moved the whole levee back. So there's another—the Bear River and the Feather River, so there's another eighteen, sixteen hundred acres. That's a lot for Yuba City. Until we get our levees taken care of. It's a good thing. Comment did not necessitate change to the Final EIS.

Response to PH2-N, Unidentified Female

PH2-N1

At this point what I can tell you, and I definitely empathize with your concern, there has not been a project delayed that has been with environmental issues.

In terms of planning that has incurred to come up with best measures available to address the deficiencies in terms of the engineering studies that need to go way to look at the voracity of that plan and make sure that it is meeting standards. And then the property acquisition process, environmental list is going a long in parallel with all of these things in this point, all converging, and will hopefully get construction started in 2013. At this point, environmental causes have not been a result of any scheduling delay. Comment did not necessitate change to the Final EIS.

PH2-N2

Yes. Comment did not necessitate change to the Final EIS.

Response to PH2-O, Unidentified Male

PH2-O1

That is true. And this project did look at alternatives such as set back levees. And those will not be equal for you because they take up a lot of land and impact by doing that. We're going to be re enforcing our levees in place by installing slurry walls. And basically that's the predominant feature. Comment did not necessitate change to the Final EIS.

Response to PH2-P, Unidentified Male

PH2-P1

No, not as part of this project. Further downstream they are looking further down from our project. When you get to the confluence of the Sutter By pass there is an idea alternative of a setback levee in that area. And that'll be studied in the future. But our project is not setting back levees. But you mentioned a cross the river, Yuba and Trilia (phonetic [TRLIA?]) have setback levees in those areas. That does help widen out the flood plan for both sides, too.

Even if we make those improvements, you still have deep under- seepage issues. And there are the same water surface elevations that will create the same flood problems we've discussed. So we still have to fix the levees. And the issues also with sediment, we talked about hydraulic mining and some of the controversies associate d with dredging. And that's very expensive. And I don't know how to tell you about the environmental issues associated with habitat. But a lot of that sediment is still moving down the system. So we clear it out, and it's replaced. But there are still remnants of the old hydraulic mining. And it comes back. So regardless, we've got to fix the levees for under- seepage. Comment did not necessitate change to the Final EIS.

PH2-P2

This project will not be doing that. There's other studies like Feather River Corps Management Plan that's looking at removing some obstructions within the river. But that alone will not alleviate the desire or the need for our project to move forward.

Even if we make those improvements, you still have deep under- seepage issues. And there's the same water surface elevations that will create the same flood problems we've discussed. So we still have to fix the levees. And the issues also with sediment, we talked about hydraulic mining and some of the controversies associate d with dredging. And that's very expensive.

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Response to PH2-Q, Roy Stevenson

PH2-Q1

Thank you for your comment. Comment did not necessitate change to the Final EIS.

PH2-Q2

Thank you for your comment. Comment did not necessitate change to the Final EIS.

Response to PH2-R, Unidentified Female

PH2-R1

Since 1907, if you discount all the over top failures where water comes over the top, there's been at least seven failures of where the water is not even come close to where these levees were authorized to operate. So they're supposed to operate at a certain level of operation. State locals, they said your levee is supposed to operate.

And they've done it seven times. Discount the other overtopping failures over the top. Seven times we've had failure of the levee. It didn't come up to that it didn't perform to what it was supposed to do. And 1955 is one of those failures. In most cases it came underneath the levee and blew the levee out. And the thing about those types of failures the under-seepage failure is they only blow out when the water was very high and they fail catastrophically. And I had personally seen levees that have undergone under-seepage and knocked on people's door to get the hell out of Dodge. Because it's a very scary thing when the water gets up very high. And that's what contributed to—that's what generally contributes to loss of life is deep under-seepage.

I understand your point about dredging. It sounds like—so dredging, taking the volume out between the channels to provide more conveyance, absolutely. That works in lots of cases. Taking out trees and snags, in many cases that works. And we've looked at that. And again, in a perfect world, if we could do that, we'd still have an issue with deep under-seepage. That's contributed to at least seven failures through the levee or under the levee. It just means you had a really lousy levee on a really lousy foundation, and the levee blew out, and in some cases people died. And we're trying to address that issue. And dredging, environmental issue, yeah, that's a problem. And that's the legal infrastructure we live in. I can't begin to address that. We're just trying to address the highest risk failure mode right now that we can do with the available money that we have. Over the long term there is a study—again another study, and I understand the frustration of studies—that's looking at dredging another time. But it really doesn't affect what we're doing. We have to fix these levees right now in the places we know they're going to break. Comment did not necessitate change to the Final EIS.

Response to PH2-S, Frank McCarley

PH2-S1

Tomorrow there is a contractors' outreach right here in Yuba City to invite contractors, and obviously there's interest to invite local contractors, to submit this on this contract. Now, we're a public agency, we are—it's in our charge to get as much work with the lowest price. And there are only so many things we can do to facilitate local construction. But we're very fortunate in this area that there are a couple of very confident contractors that—through that have been tracking this project. And we've been talking to them. So we expect they'll be a lot more participation in this project. It's well suited for construction companies.

We're following the Public Contract Code, we're holding a contract outreach program tomorrow. We've invited—we're going to get a packed house over at Yuba City Council Chambers tomorrow

morning. But it could go to an outside, out of the area, out of the state contractor. It's whoever has the best price for the work. And we're all paying money to contribute to this. So we want to get the biggest bang for our buck. And that's how it's going to be. But we are going to promote local contractors, local vendors, and local material providers. We're going to try to get the word out so that any contractor who gets our project tries to utilize local services as much as possible. So that's what our Board of Directors has sort of mandated. Comment did not necessitate change to the Final EIS.

Response to PH2-T, Unidentified Male

PH2-T1

No. We'll be out to bid in March, so we'll be entering our bid documents. And I believe March 18th is when we should be out to bid formally on the first project. Comment did not necessitate change to the Final EIS.

PH2-T2

Yes. It will be advertised in the newspaper, and it'll be on our Web site. We want to get the word out as much as possible. Comment did not necessitate change to the Final EIS.

Response to PH2-U, Unidentified Female

PH2-U1

No, there's not. We're following Public Contract Code. And it's not like DVD or any advantage like that where some federal contracts have that. Ours does not. Comment did not necessitate change to the Final EIS.

Response to PH2-V, Andrew (?)

PH2-V1

This is going to be a very large contract. It's approximately a 50-million dollar contract. We're going to have to have contractors who can bond to those amounts. It's part of our bid process, they have to show that they have done many projects like ours in the past. We'll be checking on that. So they have to be qualified to do the work. So we would investigate that as part of our process. But it's going to be big, a pretty good-size contractor to be able to handle a job like ours. Comment did not necessitate change to the Final EIS.

PH2-V2

I would assume there will be a prime with subcontractors as part of their team. Comment did not necessitate change to the Final EIS.

PH2-V3

We check on everybody. They have to submit qualifications for all the subcontractors up to half a percent of the work. So we're going to be seeing who those subs are, and we'll evaluate those. Comment did not necessitate change to the Final EIS.

